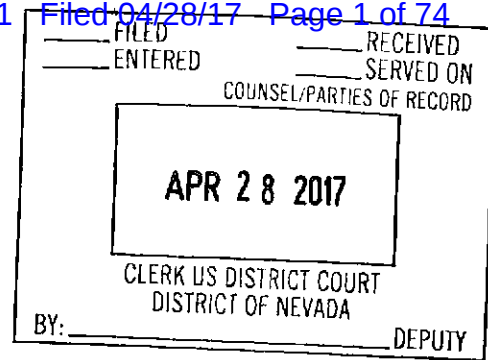


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*In Pro Se*



**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

VICTORIA GIAMPA,

Plaintiff,

vs.

MIDFIRST BANK; FANNIE MAE, FANNIE  
MAE AS TRUSTEE FOR SECURITIZED  
TRUST, FANNIE MAE REMIC PASS-  
THROUGH CERTIFICATES 2006-123  
TRUST; COUNTRYWIDE SERVICING  
CORP., BANK OF AMERICA  
CORPORATION; BANK OF AMERICA,  
N.A., BAC HOME LOANS SERVICING,  
LP; RECONTRUST COMPANY, N.A.;  
GREEN TREE SERVICING, LLC; DITECH  
FINANCIAL, LLC; MORTGAGE  
ELECTRONIC REGISTRATION SYSTEM,  
("MERS"); NATIONAL DEFAULT  
SERVICING CORPORATION; AND DOES  
1 THROUGH 100 INCLUSIVE, *et al.*

Defendants.

**2:17-cv-01208-MMD-CWH**

**VERIFIED COMPLAINT**

**COMPLAINT FOR DAMAGES AND OTHER RELIEF**

## PRELIMINARY STATEMENT

Since 2009 the United States has been in a foreclosure crisis. In late 2009, one in eight U.S. mortgages was in foreclosure or default, and 2.8 million homeowners received foreclosure notices in 2009. Plaintiff's home is being wrongfully foreclosed upon, and this court has heard repeatedly from many struggling homeowners in the State of Nevada proclaiming the same lament.

This complaint arises out of a dispute between Plaintiff and Defendants that began in and around 2009, when one or more Defendants created an unlawful escrow account and started collecting escrow funds against Plaintiff's mortgage in part to fund the payment of improper sums billed and paid to Bank of America. Plaintiff had been separately paying the property taxes and insurance on the subject property from 1999. Plaintiff informed Defendants that the creation of this escrow account was the start of all the harm that Plaintiff complains of now. Plaintiff has paid and continued to pay her mortgage as agreed. All amounts actually owed by plaintiff had been fully and legally tendered but for Defendants' later taking charge of paying escrow fees. Plaintiff objected to the illegal opening of the escrow account and demanded that the mortgage account have its escrow account removed immediately and Plaintiff's home loan be placed back in the state that it was in prior to this escrow account being established. Plaintiff sent Defendants a copy of the insurance policy so defendants could see exactly what was or was not covered and other details of it. Plaintiff offered a full tender of the amounts owed on the mortgage just as soon as she received a copy of the policy she was being asked to pay for under the terms of the Deed of Trust. No copy has ever been furnished to plaintiff other than a Notice sent on October 15, 2009, where BAC purchased insurance on Plaintiff's property for the insurance premium amount of \$1,321.00, (**Exhibit 1**). Defendants

1 ignored Plaintiff's requests and did not respond, even after it was repeatedly requested. Instead,  
2 Defendants created an improper and involuntary escrow account, refused to simply let Plaintiff  
3 pay the mortgage and the insurance as she had been for years, and demanded an increase in  
4 Plaintiff's monthly payments. Based on information and belief, Defendants knew of Plaintiff's  
5 request for a copy of the required escrow account analysis before Defendants created the  
6 escrow account, and yet participated in overcharging Plaintiff for insurance, along with  
7 collecting excessive and unnecessary fees for taxes and insurance and/or in the alternative,  
8 never placing the insurance that plaintiff was billed for on the subject property resulting in  
9 more debt than Plaintiff could afford to pay knowing Plaintiff was in a very vulnerable position  
10 in regards to the subject property. Defendants used this information in part to improperly take  
11 advantage of Plaintiff in an anti-competitive and detrimental way and overcharged her for  
12 excessive or unneeded costs and fees for taxes and insurance in violation of the State of Nevada  
13 laws in order to improperly extort fees and costs out of Plaintiff on several occasions, and later  
14 by initiating an improper acceleration and foreclosure on the subject property. Sometime  
15 thereafter, Defendants refused to accept Plaintiff's tendered payment and after having  
16 repeatedly misapplied her prior monthly payments and Defendants making no meaningful  
17 efforts to settle this dispute, all the while knowing that the balance in that dispute account  
18 continues to build, Defendants blindly allege a payment default and initiated improper  
19 accelerations and now seek the expensive and drastic foreclosure option so they, their agents,  
20 subsidiaries, affiliated companies, and co-conspirators may collect and extort improper  
21 additional attorney fees, unnecessary and inflated fees and/or costs, and expenses under their  
22 interstate scheme to seize Plaintiff's money; and later after an arbitration, by initiating an  
23  
24  
25

1 improper foreclosure again on the subject property without responding to Plaintiff's RESPA  
2 requests, and received no timely responses to any of them.

3         Back in 2009 and 2010, while the parties engaged in substantial dialogue regarding  
4 the issue of taxes and insurance, Bank of America asked Plaintiff if she was interested in  
5 receiving an offer for a loan modification through the federal Home Affordable Modification  
6 Program. Unfortunately, instead of fulfilling their promises in providing a HAMP loan to  
7 Plaintiff under the Home Affordable Mortgage Program, pursuant to the Making Home  
8 Affordable Program Handbook, and the promise that Plaintiff will not lose her home to a  
9 foreclosure while the loan is being considered for a modification, Defendants, who had no right  
10 to foreclose upon her, have engaged in a fraudulent and deceitful scheme constituting unfair  
11 business practices in order to increase its own profits by failing to close the mortgage  
12 transaction for the past approximately nine years.

14         Plaintiff has recently received the notice of default and notice of sale again from  
15 National Default Servicing with knowingly false and misleading representations of the total  
16 debt owed by Plaintiff. These numbers contain fees, costs, and charges for which Bank of  
17 America admits in writing that it overcharged Plaintiff and paid back monies to Plaintiff for  
18 which Defendants were not entitled to lawfully or contractually bill and collect from Plaintiff,  
19 known to be in error, and were long in dispute, i.e. escrow issues and late charges stemming  
20 from 2009. On December 29, 2009, Bank of America sent Plaintiff a letter stating that "The  
21 lender-placed insurance coverage that was purchased by BAC Home Loans Servicing, LP at  
22 your expense, has been cancelled with no charge to you." (**Exhibit 2**). Clearly, Defendants  
23 violated RESPA Reg. X, 3500.17(f)(2)(i), by not properly returning Plaintiff's excess funds in  
24 the disputed escrow account within 30 days as required by RESPA, not counting the violation  
25

1 in even collecting such sums in the first place. Defendants have delayed or not responded to  
2 Plaintiff's RESPA's requests and their actions may have been designed to run any statute of  
3 limitations that would apply to Plaintiff's RESPA claims.

4 Defendants' acts and omissions have been with deliberate indifference, oppression  
5 and fraud, and have proximately caused Plaintiff actual damages, including but not limited to  
6 severe emotional distress, loss of sleep, frustration, fear, anxiety, direct monetary loss and  
7 irreparable injury that continues to this very day.

8  
9 Based on information and belief, Plaintiff contends that the imminent foreclosure is  
10 invalid because National Default Servicing had been issued a Certificate of Non-Foreclosure  
11 by an arbitrator in a prior State of Nevada Foreclosure mediation hearing on March 31, 2016,  
12 **(Exhibit 3)**. The previous foreclosure and the imminent foreclosure is invalid because  
13 National Default did not and does not have the authority to legally convey the property as  
14 Trustee in the Trustee's Deed Upon Sale in violation of NRS 107.086. Defendants' failure to  
15 bring the necessary documentation to the arbitration hearing in March 2016, violated Nevada  
16 Revised Statute 107.086(2)(a)(3) (requiring a trustee to send with every Notice of Default a  
17 form where the homeowner "may indicate an election to enter into mediation"). But for  
18 National Default Servicing frustrating Plaintiff's right to a fair and equitable arbitration hearing,  
19 Plaintiff might have been afforded a fair and equitable hearing and a modification of a loan.  
20 Courts have held that participating in good faith in the mediation hearing is a prerequisite to  
21 moving forward with the foreclosure. NRS 107.086(2)(c)(2) (requiring a certification under  
22 NRS 107.086(7), which requires the parties act in "good faith").  
23

24 On August 30, 2011, the State of Nevada, Attorney General's Office, filed a Deceptive  
25 Trade Practices action against Countrywide [and Bank of America], and alleged that they

1 engaged in a broad range of deceptive practices to sell and service mortgage loans to Nevada  
2 consumers. The public needs to be aware of what the Attorney General allege in its complaint  
3 which plainly show a similar pattern and practice of deceit by Countrywide and Bank of  
4 America in Plaintiff's case, who were found by the Attorney General's office to have engaged  
5 in deceptive trade practices which poses a continuing threat to the public. (**Exhibit 4**)

#### 6 **JURISDICTION**

7  
8 1. This Court has jurisdiction pursuant to the FDCPA, 15 U.S.C. §  
9 1692k(d), and 28 U.S.C. §§ 1331 and 1337.

10 2. This Court has jurisdiction pursuant to RICO, 18 U.S.C. § 1964(a) &  
11 (c), 28 U.S.C. § 1331 and 28 U.S.C. § 1337.

12 3. This Court has supplemental jurisdiction over the state law claims  
13 pursuant to 28 U.S.C. § 1367.

#### 14 **PARTIES**

15 4. Plaintiff Victoria Giampa is now, and at all times relevant to this action,  
16 a resident of the County of Clark, State of Nevada.

17 5. At all times relevant to this action, Plaintiff owned and has superior  
18 claim to the Real Property (the "Home") located at 1848 Wellington Ct., Henderson,  
19 NV 89014.

20 6. Defendant Bank of America Corporation is a foreign corporation that is  
21 incorporated in Delaware, with its principal place of business located in Charlotte,  
22 North Carolina. At all times material to this complaint, Bank of America Corporation  
23 was doing business in the State of Nevada. Bank of America Corporation is the parent  
24  
25

1 corporation of Bank of America, N.A. and a successor in interest to Countrywide  
2 Financial.

3 7. Defendant Bank of America, N.A. is a national bank with its principal  
4 place of business located in Charlotte, North Carolina. At all times material to this  
5 complaint, Bank of America, N.A. was doing business in the State of Nevada. Bank  
6 of America, N.A. is the parent of BAC Home Loans and ReconTrust.

7  
8 8. Defendant BAC Home Loans services loans and is a subsidiary of Bank  
9 of America with its principal place of business in the State of Texas. On July 1, 2-11  
10 BAC Home Loans Servicing was merged into Bank of America, N.A. At all times  
11 relevant to this complaint, BAC Home Loans was doing business in the State of  
12 Nevada.

13 9. Defendant ReconTrust is a wholly-owned subsidiary of Bank of  
14 America, N.A. that services mortgages. At all times material to this complaint,  
15 ReconTrust's principal place of business was located in California and ReconTrust was  
16 doing business in the State of Nevada.

17 10. Defendant Green Tree Servicing was and is a foreign limited liability  
18 company licensed to do business in the State of Nevada and County of Clark.

19 11. Defendant Ditech Financial LLC, "Debt Collector" is a limited liability  
20 corporation formed under the laws of South Dakota. Ditech is a debt collector as that  
21 term is defined under 15 U.S.C. § 1692a(6) and has violated the statute using unfair or  
22 unconscionable means to collect or attempt to collect a debt.

23  
24 12. On July 1, 2008, Bank of America completed its purchase of  
25 Countrywide in an all-stock transaction that Bank of America has described as a

1 merger. Former Countrywide shareholders were compensated with shares of a Bank  
2 of America subsidiary that was created solely for the transaction.

3 13. Since Countrywide's acquisition, Bank of America has taken over  
4 servicing loans previously serviced by Countrywide, along with its own servicing  
5 portfolio. Former Countrywide customers now use Bank of America customer service  
6 resources, including Bank of America service centers and website. Former  
7 Countrywide customers receive mortgage statements from Bank of America, make  
8 their mortgage payments to Bank of America, and apply to Bank of America if they  
9 wish to modify their mortgages. The combined mortgage lending operations of Bank  
10 of America and Countrywide, including Countrywide's branch network and origination  
11 platform, now operate under the name Bank of America Home Loans. The servicing  
12 operations of Bank of America and Countrywide merged into BAC Home Loans  
13 Servicing, LP.  
14

15 14. As part of the merger, Bank of America assumed Countrywide's  
16 liabilities. Bank of America agreed on Countrywide's behalf to modify certain  
17 Countrywide home loans as a part of an \$8.4 billion consumer fraud settlement with  
18 state attorneys general.

19 15. In November 2008, Countrywide's assets were transferred to Bank of  
20 America. Countrywide has stopped independently filing financial statements. Instead,  
21 Countrywide's assets and liabilities are reported on Bank of America's financial  
22 statements.  
23

24 16. Defendant MidFirst Bank is a National Banking Association, a Non-  
25 Depository Payor Bank, a corporation, doing business in the County of Clark, State of



1 Nevada. Plaintiff is further informed and believes, and thereon alleges, that MidFirst  
2 Bank is the account debtor of the instant matter in a capacity of accommodated party  
3 in interest to a 26 U.S. Code § 1031– Exchange of property held for productive use or  
4 investment warehouse line of credit, hereinafter more particularly described in this  
5 Complaint.

6 17. Defendant Fannie Mae is a corporation, doing business in the County of  
7 Clark, State of Nevada. Defendant is the “Sponsor/Seller” for bankruptcy remote  
8 Special Purpose Vehicle FNMA 2006-123 Trust. Plaintiff is further informed and  
9 believes, and thereon alleges that Defendant Fannie Mae was acting in the capacity of  
10 a qualified intermediary for credit swap conveyances associated to the 26 U.S. Code §  
11 1031– Exchange of property held for productive use or investment warehouse line of  
12 credit, more particularly described in this Complaint.

13 18. Defendant Depositor is an as-of-yet unidentified corporation doing  
14 business in the County of Clark, State of Nevada. Defendant is the purported  
15 “Depositor” for bankruptcy remote Special Purpose Vehicle FNMA 2006-123 Trust.  
16 Plaintiff is further informed and believes, and thereon alleges that Defendant Depositor  
17 was acting in the capacity of a qualified intermediary for credit swap conveyances  
18 associated to the 26 U.S. Code § 1031 – Exchange of property held for productive use  
19 or investment warehouse line of credit, more particularly described in this Complaint.

20 19. Defendant, Fannie Mae, acting in the capacity of Trustee for the  
21 bankruptcy remote Special Purpose Vehicle Fannie Mae REMIC Pass-Through  
22 Certificates 2006-123 (herein referred to as “FNMA 2006-123 Trust” is a National  
23 Banking Association, doing business in the County of Clark, State of Nevada. Plaintiff  
24  
25

1 is informed and believes, and thereon alleges that Defendant Fannie Mae acting in the  
2 capacity as Junior Secured Party to MidFirst Bank in the special purpose vehicle (SPV)  
3 transaction scheme is offering securities to the secondary market for the purpose of  
4 obtaining certificate holder's acquired funds by Special Deposit to execute a 26 U.S.  
5 Code § 1031– Exchange of property held for productive use or investment warehouse  
6 line of credit, more particularly described in this Complaint.

7  
8 20. Defendant, Mortgage Electronic Registration Services, Inc., aka MERS  
9 (“MERS”), is a corporation duly organized and existing under the laws of Nevada,  
10 doing business in the County of Clark, State of Nevada. Plaintiff is informed and  
11 believes, and thereon alleges that MERS was acting in the capacity of electronic agent  
12 as a purported Nominee/Beneficiary for MidFirst Bank under the Deed; subsequently  
13 acting in a capacity of bailor/bailee for each successor defendant of bankruptcy remote  
14 Special Purpose Vehicle FNMA 2006-123 Trust associated to the 26 U.S. Code §  
15 1031– Exchange of property held for productive use or investment warehouse line of  
16 credit, more particularly described in this Complaint.

17 21. Defendant National Default Servicing Corporation is registered in  
18 Nevada as a foreign corporation stating in its filed Certificate of Existence that it is an  
19 Arizona corporation.

20 22. At all times relevant to this transaction, Plaintiff Victoria Giampa was  
21 and is a Consumer within the meaning of 15 U.S.C. § 1692a(3).

22 23. At all times relevant to this transaction Defendants Countrywide, Bank  
23 of America, BAC, Green Tree Servicing, Ditech, National Default Servicing was and  
24  
25

1 are Debt Collectors within the meaning of 15 U.S.C. § 1692a(6), as it regularly collects  
2 or attempts to collect debts owed or due another.

3 24. At all times relevant to this transaction. Defendants are and were  
4 persons as defined under RICO in 18 U.S.C. § 1961(3).

5 25. Plaintiff does not know the true names, capacities, or basis for liability  
6 of Defendants sued herein as Does 1 through 100, inclusive, as each fictitiously named  
7 Defendant is in some manner liable to Plaintiff, or claims some right, title, or interest  
8 in the Property. Plaintiff will amend this Complaint to allege their true names and  
9 capacities when ascertained through discovery. Plaintiff is informed and believes, and  
10 therefore alleges that at all relevant times mentioned in this Complaint, each of the  
11 fictitiously named Defendants are responsible in some manner for the injuries and  
12 damages to Plaintiff so alleged and that such injuries and damages were proximately  
13 caused by such Defendants, and each of them.

14 26. Plaintiff is informed and believes, and thereon alleges that at all times  
15 herein mentioned, each of the Defendants were the agents, employees, servants and/or  
16 the joint-ventures of the remaining Defendants, and each of them, and in doing the  
17 things alleged herein below, were acting within the course and scope of such agency,  
18 employment and/or joint venture.

19  
20  
21 **GENERAL ALLEGATIONS**

22 27. This is an action brought by Plaintiff for declaratory judgment,  
23 injunctive and equitable relief, and for compensatory, special, general and punitive  
24 damages.

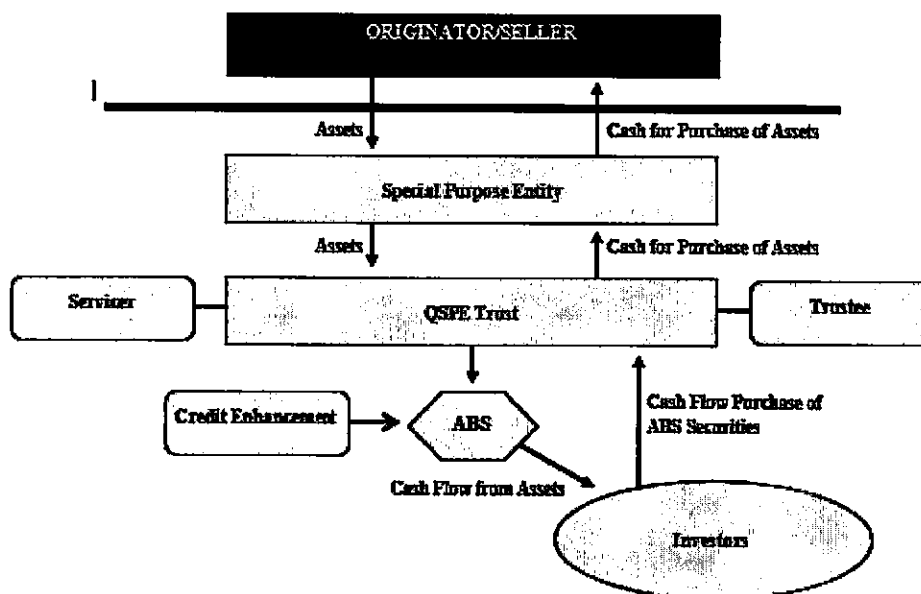
1           28. Plaintiff homeowner disputes Defendants' superior colorable claim to  
2 legal title and equitable title of the Prime Market Real Property in question (hereinafter,  
3 the "Real Property"), which is the subject of this instant action, inasmuch as Plaintiff  
4 specifically pledged the Real Property collateral evidenced by the Grant Deed and  
5 further clarified under the Deed of Trust as Real Property to the Accommodated Non  
6 Depository Payor Bank, MidFirst Bank (hereinafter, Accommodated Party) as  
7 Accommodation Party in the 26 U.S. Code §1031 – Exchange of property held for  
8 productive use or investment (hereinafter, the "§1031 – Exchange"). Plaintiff is  
9 informed and believes, and thereon alleges that the Defendant FNMA 2006-123 as a  
10 Junior Secured Party to MidFirst Bank in the §1031 – Exchange is attempting to make  
11 an unlawful claim to legal title through a fraudulent assignment of enforcement rights  
12 of the currently un-perfected underlying Deed of Trust and unlawful equitable claim  
13 of ownership to Plaintiff's Real Property through the MidFirst Bank hypothecated  
14 collateral purportedly after acquired "proceeds" of the Real Property through the Deed  
15 of Trust lien encumbering Plaintiff's Real Property, which is being unlawfully  
16 construed as the Intangible Payment Obligation Transferable Record Chattel Paper  
17 (hereinafter, the "Payment *Intangible*"), the underlying *intangible* collateral to the  
18 Tangible Note for Accommodation or Bill of Exchange (hereinafter, Tangible "Note"),  
19 **(Exhibit 5)** and Deed of Trust, **(Exhibit 6)**.  
20

21           29. From 1998 until the financial crash of 2008-2009, over 60 million  
22 purported consumer credit mortgage loan transactions were purportedly sold by Non-  
23 Depository Payor Banks into Special Purpose Vehicles, (hereinafter "SPV") "REMIC  
24 Trusts," "pools of loans," that are empty, devoid of any "mortgages" that are taken  
25

against phony "Mortgage-Backed-Securities," that have no "mortgages" in them via 26 U.S. Code §1031 – Exchange of property held for productive use or investment (hereinafter, the "§1031 – Exchange"). Plaintiff's purported home loan was one of the 60 million scheduled for exchange. PSA for FNMA 2006-123 <http://www.fanniemae.com/syndicated/documents/mbs/remicsupp/2006-123.pdf>.

30. Plaintiff is informed and believes, and thereon alleges that a §1031 – Exchange is the mechanical transactional scheme whereby a purported Tangible Note is converted/exchanged for a Payment Intangible asset to provide an alternative investment offering via Special Deposit to certificate or bond holders which were expected to be relatively safe; which, were offered by Wall Street Firms to the secondary market through purported mortgage backed securities.

OCC Asset Securitization Manual 1997, Pg.23.



1           31. Plaintiff is informed and believes, and thereon alleges that certain tax  
2 laws known as the Real Estate Mortgage Investment Conduit (hereinafter, REMIC)  
3 Tax Reform Act of 1986 were to be observed, whereby the Non-Depository Payor  
4 Banks and Issuing Entities REMIC would be protected from either entity going into  
5 bankruptcy. To achieve the desired "bankruptcy remoteness," purported numerous  
6 "True Sales" of Plaintiff's Tangible Note would have had to have occurred by  
7 operation of all applicable laws.

8           32. Plaintiff is further informed and believes, and thereon alleges that there  
9 was no "True Sale" of Plaintiff's Tangible Note, a circumstance whereby MidFirst  
10 Bank sold Plaintiff's Tangible Note to the "buyer/seller" Fannie Mae in the ordinary  
11 course of business by offer, acceptance, delivery and consideration given for full value  
12 of the entire instrument pursuant to the Real Estate and the Tax Reform Act of 1986.

13           33. The Accommodated Non-Depository Payor Bank (hereinafter,  
14 Accommodated Party) MidFirst Bank, purports to have negotiated in accordance with  
15 all applicable laws the Tangible Note obligation in the ordinary course of business to  
16 successor defendant Fannie Mae. Likewise, Plaintiff is informed and believes, and  
17 thereon alleges that MidFirst Bank has unlawfully assigned, transferred, or conveyed  
18 account debtor capacity as Accommodated Party to Fannie Mae, successor and  
19 successor defendants, in consideration for a service release premium received for  
20 Accommodated Party services rendered for originating the §1031 – Exchange on or  
21 before closing date of FNMA 2006-123 Trust. Plaintiff is informed and believes, and  
22 thereon alleges that MidFirst Bank never negotiated the Tangible Note - by operation  
23 of law for full value in accordance with all applicable laws - to Fannie Mae.  
24  
25

1           34. The Accommodated Party MidFirst Bank, purports to have  
2 assigned/transferred a beneficial security interest over Plaintiff's Real Property  
3 evidenced by MidFirst Bank's recorded Deed of Trust lien in the ordinary course of  
4 business to successor defendants of the §1031 – Exchange. Plaintiff is informed and  
5 believes, and thereon alleges that MidFirst Bank never negotiated the Tangible Note  
6 Bill of Exchange for full value in accordance with all applicable laws. Plaintiff is  
7 further informed and believes, and thereon alleges, that at best, MidFirst Bank  
8 delivered a converted (statutory conversion) an unsecured Tangible Note as “order  
9 paper” to Fannie Mae for settlement for Accommodated Party services rendered  
10 associated with originating the exchange transaction, not in the ordinary course of  
11 business, and therefore, could not negotiate, assign, nor transfer the underlying security  
12 intangible beneficial security interest enforcement right over the power of sale  
13 covenant in the MidFirst Bank's currently un-perfected Deed of Trust lien  
14 encumbering Plaintiff's Real Property. “Order paper” must be endorsed; bearer paper  
15 need only be delivered. §3-305. However, in either case, for the note to be enforced,  
16 the person who asserts the status of the holder *must be* in possession of the instrument.”  
17 See UCC § 1-201 (20) and comments.  
18

19           35. As part of the transaction scheme of 26 U.S. Code §1031 – Exchange,  
20 Defendants deployed MERS as an electronic agent under the Constructive Deed of  
21 Trust as nominee/beneficiary for each successor Defendant as bailor/bailee to  
22 streamline a purportedly hypothecated security interest - “Secret Liens” - over the  
23 Payment Intangible after acquiring collateral, unlawfully construed as “Proceeds” of  
24 Plaintiff's Real Property. Plaintiff is informed and believes, and thereon alleges that  
25

1 MERS only tracks and updates ownership of the Payment Intangible registered with  
2 the MERS' database software system. MERS cannot transfer the beneficial right to  
3 the Tangible Accommodated Note instrument. A legitimate "True Sale" of a Tangible  
4 Note instrument can only be transferred in the ordinary course of business by proper  
5 negotiation for full value, transfer and delivery by operation of all applicable laws.  
6 pursuant to the MERS Procedural Manual and MERS Patent.

7  
8 36. Plaintiff is further informed and believes and thereon alleges that  
9 payment for full value of the entire instrument in the ordinary course of business to  
10 MidFirst Bank from Fannie Mae of the Tangible Note for Accommodation at or before  
11 its maturity date destroys the Tangible Note's negotiability; thus, no documents or  
12 records can be produced that demonstrate that prior to the December 28, 2006 closing  
13 date for FNMA 2006-123 Trust, the Tangible Note was duly indorsed, transferred and  
14 delivered to FNMA 2006-123 Trust in the ordinary course of business by operation of  
15 all applicable laws, including all intervening transfers and any purported transfers in  
16 the personal property Payment Intangible. Nor can any documents or records be  
17 produced that demonstrate that prior to the December 28, 2006, the Deed of Trust was  
18 duly assigned, transferred and delivered to FNMA 2006-123 Trust, via the Custodian  
19 of Records, Fannie Mae, including all Secret Liens purportedly securing the Payment  
20 Intangible intervening transfers/assignments.

21  
22 37. Plaintiff further alleges that any documents, i.e. MERS' Assignment of  
23 the Deed of Trust, that purports to transfer a hypothecated beneficial security interest  
24 over the Payment Intangible underlying collateral of the Tangible Note or Bill of  
25 Exchange to FNMA 2006-123 Trust after the Closing Date December 28, 2006 are



1 void as a matter of law. No security interest in the Real Property was perfected in the  
2 name of any of the successor defendants to the §1031 - Exchange. The alleged holder  
3 of the Tangible Note is not the beneficiary of the Deed of Trust. The alleged  
4 beneficiary of Plaintiff's Deed of Trust, MERS, does not have the requisite title,  
5 perfected security interest or standing to proceed in a foreclosure; and/or is not the real  
6 party in interest as agent or nominee to any action taken or to be taken against the Real  
7 Property by successor Defendants to the §1031 - Exchange. PSA Section 2.01  
8 Conveyance of Mortgage Loans. Plaintiff is also informed and believes and thereon  
9 alleges that at all times herein mentioned, any assignment of a Deed of Trust without  
10 proper transfer in the ordinary course of business of the Tangible Note that it secures  
11 is a legal nullity by operation of law. Plaintiff is informed, believes and thereon  
12 alleges that the FNMA 2006-123 Trust had no officers or directors and no continuing  
13 duties other than to hold assets and to issue the series of certificates of SPV investment  
14 in mortgage-backed securities as described in the Prospectus identified herein below.  
15 A detailed description of the purported mortgage loans which form the FNMA 2006-  
16 123 Trust is included in Form 424B5 ("the Prospectus"), which has been duly filed  
17 with the SEC. FNMA 2006-123 Form 10k.

18  
19 <http://www.fanniemae.com/syndicated/documents/mbs/remicsupp/2006-123.pdf>

20  
21 38. Plaintiff alleges that Defendants, and each of them, cannot establish  
22 possession, show proper receipt, transfer, negotiations, assignment and ownership of  
23 the Tangible Note or Deed of Trust, resulting in imperfect security interests and claims;  
24 therefore, none of the Defendants has perfected any colorable claim of title or security  
25 interest in Plaintiff's Real Property. Defendants, and each of them, cannot establish

1 that the Deed of Trust, purportedly securing the Tangible Note, was legally or properly  
2 acquired in accordance with all applicable laws. Plaintiff, therefore alleges, upon  
3 information and belief, that none of the parties to the §1031 – Exchange transaction,  
4 nor any of the Defendants in this case, hold a perfected and secured claim to Plaintiff's  
5 real property; and that all Defendants are equitably estopped and precluded from  
6 asserting an unsecured claim against Plaintiff's estate.

7  
8 39. Plaintiff alleges that an actual controversy has arisen and now exists  
9 between the Plaintiff and Defendants, and each of them. Plaintiff desires a judicial  
10 determination and declaration of the rights, obligations and interest of the parties with  
11 regard to the property and the current validity of the corresponding Tangible Note and  
12 Mortgage/Deed of Trust.

13 40. Plaintiff requests a determination whether any Defendant has authority  
14 to foreclose on the real property.

15 41. Plaintiff requests that the Court declare and adjudge that Plaintiff is  
16 entitled to the exclusive possession of the property.

17 42. Plaintiff requests that the Court declare and adjudge that Plaintiff owns  
18 the real property in fee simple and is entitled to the quiet and peaceful possession of  
19 the real property.

20 43. Plaintiff requests that the Court declare and adjudge that Defendants,  
21 and all persons claiming under her, have no estate, right, title, lien or interest in or to  
22 any part of the real property.

23 44. Plaintiff also seeks redress from Defendants identified herein for  
24 damages, for other injunctive relief, and for cancellation of written instruments based  
25

upon:

- a. An invalid and unperfected security interest in Plaintiff's Real Property hereinafter described;
- b. Void "True Sales;" and,
- c. An incomplete and ineffectual perfection of a security interest in Plaintiff's Real property.

### **FACTUAL ALLEGATIONS**

45. Plaintiff had a Forensic Chain of Title Securitization Analysis completed by a qualified expert to verify the claims of this complaint and Affidavit of Michael Carrigan, (**Exhibit 7**).

46. Plaintiff is the Superior Recorded owner of the Real Property, Deed of Trust, (*see Exhibit 6*).

47. Plaintiff was issued an uncertificated security to execute in the capacity of (Accommodation Party) to a Tangible Note Bill of Exchange on November 6, 2006 regarding a purported loan to (Accommodated Party) MidFirst Bank for \$358,500.00, (*see Exhibit 5*).

48. Defendant MidFirst Bank is an account debtor Accommodated Party to a 26 U.S. Code § 1031 – Exchange of property held for productive use or investment.

49. Plaintiff herein alleges that the signatures on the Tangible Note Bill of Exchange instrument as the Accommodation party constitutes a statutory capacity as surety for the non-depository payor bank, the original accommodated secured party of record, acting as Trustee/Account Debtor pursuant to a Special Deposit 26 U.S. Code §1031 – Exchange of property held for productive use or investment.

1           50.     On November 20, 2006, Plaintiff pledged a Constructive Deed of Trust  
2     granting Legal Title to Accommodated MidFirst Bank to file against Plaintiff's  
3     Superior Claim to Title filed in the Official Records of the Clark County Recorder's  
4     Office as ins# 2006.1120.0614, Deed of Trust, (*see Exhibit 6*).

5           51.     The purported mortgage loan contracts between the parties are specific  
6     as to the duties of each party.

7           52.     On November 22, 2006, MidFirst Bank sent a letter (**Exhibit 8**) to  
8     Plaintiff notifying Plaintiff:

9           The loan on the above property has been sold to Countrywide Home Loans,  
10     Inc. The new Mortgagee clause needs to read:

11           Countrywide Home Loans, Inc.  
12           And/or its assigns as their interest may appear (ATIMA)  
13           PO Box 961206, FTWX-22  
14           Ft Worth TX 76161

15           The servicing has been transferred to Countrywide Home Loans, Inc. Please  
16     send all correspondence to:

17           Countrywide Home Loan, Inc.  
18           Attn: Insurance Department, M/S SV22  
19           PO Box 10212  
20           Van Nuys CA 91410-0212

21           53.     On December 5, 2006, MidFirst Bank sent a letter (**Exhibit 9**) to  
22     Plaintiff notifying Plaintiff that "...the servicing of your mortgage loan, that is, the  
23     right to collect payments from you, is being assigned, sold or transferred from  
24     MidFirst Bank to Countrywide, effective 01/01/07.

25           54.     On January 18, 2007, an Assignment of Deed of Trust was executed  
by Natalie D. Jones on behalf of MidFirst Bank, purporting to transfer all right, title  
and interest in Plaintiff's Deed of Trust to MERS, (*see Exhibit 7*).

1           55.     Natalie D. Jones failed to disclose her true employment with Assignee.

2           56.     The January 18, 2007 Assignment was notarized by Matthew J.

3     Petersen, (*see Exhibit 7*).

4           57.     MERS is a registration entity that does not hold loans per its operating  
5     rules.

6           58.     The January 18, 2007 Assignment occurred approximately one year  
7     after the Closing Date of the Trust and is in violation of the Trust's Agreement and is  
8     therefore, void.

9           59.     On or about September 11, 2008, Countrywide began to service  
10     Plaintiff's loan and sent Plaintiff information on how to apply for refinancing.

11           60.     On or about July 1, 2009, BAC started servicing Plaintiff's loan.

12           61.     On August 13, 2009, BAC sent a letter to Plaintiff:

13     Thank you for your recent payment to BAC Home Loans Servicing, LP, your  
14     home loan servicer. However, your loan payment for the current month has  
15     not been received. As of August 13, 2009, the total due on your loan is  
16     **\$2,648.63**, which includes the payment due on August 01, 2009.

17           62.     On August 2, 2009, BAC sent Plaintiff "Notice" –

18     We recently discovered we do not have a copy of your hazard (homeowner's)  
19     insurance information for the above-referenced property...If proof of  
20     acceptable coverage is not received within 30 days of the date of this notice,  
21     BAC Home Loans will purchase Lender-Placed Hazard (homeowner's)  
22     insurance at your expense and charge you for the cost of the insurance. The  
23     approximate cost of the Lender-Placed Insurance will be \$1,321.00, if  
24     purchased by BAC Home Loans. This estimate is based upon our knowledge  
25     that the location above is Owner Occupied and a 21-35 year old  
   home....Additionally, if the occupancy of your property changes, the premium  
   charged may differ from the amount stated in this letter. The coverage period  
   will be effective from 08/10/2009 until 08/10/2010....

   If we purchase Lender-Placed Insurance, the cost of that coverage will be  
   charged to you and may become an additional debt secured by your mortgage

1 or deed of trust. If you have an escrow account, the annual cost for this  
2 insurance will be paid from it. If you do not have an escrow account, BAC  
3 Home Loans may establish one and charge the cost of the Lender-Placed  
Insurance to it. Charging the annual cost for this insurance to your escrow  
account will likely cause your monthly payment to increase.

4 Additional items to consider include:

5 This insurance will provide less coverage than was previously in effect and it  
may duplicate existing coverage.

6 This insurance may be more expensive than your previous coverage.

7 If purchased, the coverage amount for Lender-Placed Insurance will be based  
on the replacement value, which we believe is the last known amount of  
8 coverage you purchased, and if we do not have that information, it will be  
your current principal balance. If purchased, it is estimated that your hazard  
9 coverage amount would be \$330,300.00.

10 This insurance provides no coverage for: loss or damage to personal property  
(such as personal contents of your home) loss from theft, injury to persons or  
11 property for which you may be liable, additional living expenses, or flood.  
Lender-Placed Insurance does not provide guaranteed replacement cost  
coverage.

12 The insurance may not be sufficient to fully restore or repair your property to  
its previous condition, and may not protect any equity that you may have built  
13 up on your property.

14 This insurance may have other restrictions, exclusions and limitations  
specifically described in the coverage that we acquire.

15 In the event of a claim, all payments will be due to BAC Home Loans except  
amounts in excess of BAC Home Loans' interest which will be forwarded to  
16 you.

17 63. On September 7, 2009, BAC sent another letter to Plaintiff:

18 If proof of acceptable coverage is not received by 10/12/2009, BAC Home  
Loans will purchase Lender-Placed Hazard (homeowner's) insurance at your  
19 expense and charge you for the cost of the insurance....

20 64. On October 14, 2009, BAC sent a letter to Plaintiff:

21 Thank you for your recent payment to BAC Home Loans Servicing, LP, your  
home loan servicer. However, your loan payment for the current month has  
22 not been received. As of October 14, 2009, the total due on your loan is  
23 **\$2,887.15**, which includes the payment due on October 01, 2009.

24 65. On October 15, 2009, BAC sent notice to Plaintiff:

25 **NOTICE OF LENDER-PLACED INSURANCE**

NAMED INSURED:  
 BAC HOME LOANS SERVICING, LP  
 P.O.BOX 961206  
 FORT WORTH, TX 76161-0206

PREMIUM:  
 \$1,321.00

66. On November 16, 2009, BAC sent notice to Plaintiff:

**NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	10/01/2009	\$4,770.22
Late Charges:	10/01/2009	119.26
Other Charges:	Total Late Charges	477.04
	Uncollected Costs	25.00
	Partial Payment Balance	0.00
	<b>TOTAL DUE:</b>	<b>\$5,391.52</b>

67. On November 27, 2009, BAC sent Plaintiff notice:

**NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	10/01/2009	\$4,770.22
Late Charges:	10/01/2009	238.52
Other Charges:	Total Late Charges	477.04
	Uncollected Costs	50.00
	Partial Payment Balance	0.00
	<b>TOTAL DUE:</b>	<b>\$5,535.78</b>

68. On December 18, 2009, BAC sent Plaintiff a letter explaining Plaintiff may be eligible for a HAMP loan and asking Plaintiff to call Bank of America for eligibility. Plaintiff called Bank of America and she was informed that she need not make payments to be eligible for modification.

69. On December 23, 2009, BAC sent a letter (*see Exhibit 2*) to Plaintiff:

We have updated our records with the insurance policy information that was provided. The lender-placed insurance coverage that was purchased by BAC Home Loans Servicing, LP, a subsidiary of Bank of America, N.A. at your expense, **has been cancelled with no charge to you.**

70. On December 31, 2009, Bank of America sent a notice to Plaintiff:

**NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	11/01/2009	\$4,770.22
Late Charges:	11/01/2009	238.52
Other Charges:	Total Late Charges	596.30
	Uncollected Costs	50.00
	Partial Payment Balance	0.00
	<b>TOTAL DUE:</b>	<b>\$5,655.04</b>

71. On January 29, 2010, Bank of America sent a notice to Plaintiff:

**NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	12/01/2009	\$5,320.48
	01/01/2010	2,660.24
Late Charges:	12/01/2009	238.52
Other Charges:	Total Late Charges	715.56
	Uncollected Costs	50.00
	Partial Payment Balance	0.00
	<b>TOTAL DUE:</b>	<b>\$6,049.43</b>

72. On August 16, 2010, Bank of America sent notice to Plaintiff:

**NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	07/01/2010	\$5,320.48
Late Charges:	12/01/2009	119.26
Other Charges:	Total Late Charges	784.06
	Uncollected Costs	50.00
	Partial Payment Balance	(2,385.11)
	<b>TOTAL DUE:</b>	<b>\$3,888.69</b>

73. On September 16, 2010, Bank of America sent notice to Plaintiff:

**NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	0/01/2010	\$5,320.48
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Late Charges:	08/01/2010	119.26
Other Charges:	Total Late Charges	0.00
	Uncollected Costs	50.00
	Partial Payment Balance	(381.27)
	TOTAL DUE:	\$5,108.47

74. On October 18, 2010, Bank of America sent a letter to Plaintiff:

A mortgage is considered in default status when payments are not made by the scheduled due date, a payment is missed, or if the terms of the loan are not met. When the default occurs, the accounts is subject to fees, including fees assessed for services ordered to protect the note holder's interests in the property and rights under the loan documents (the "Default Related Services").

**We may have assessed or may assess fees to your loan account for Default Related Services....**The fee schedule contains a complete list of the Default Related Services for which you may be charged however, it does not include a complete list of all fees or charges that could be assessed on your loan account.

75. On October 18, 2010, Bank of America sent notice to Plaintiff:

#### **NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	09/01/2010	\$5,320.48
Late Charges:	09/01/2010	238.52
Other Charges:	Total Late Charges	13.12
	Uncollected Costs	50.00
	Partial Payment Balance	(2,385.11)
	TOTAL DUE:	\$3,327.01

76. On November 17, 2010, Bank of America sent notice to Plaintiff:

#### **NOTICE OF INTENT TO ACCELERATE**

Monthly Charges:	10/01/2010	\$2,660.24
	11/01/2010	2,451.94
Late Charges:	10/01/2010	119.26
Other Charges:	Total Late Charges	0.00
	Uncollected Costs	65.00
	Partial Payment Balance	(1,977.6)

TOTAL DUE: \$3,318.84

77. On December 27, 2010, a Notice of Default was filed with the Clark County Recorder's Office as ins#2010.1227.0810.

78. On December 27, 2010, ReconTrust Company, N.A. sent Plaintiff an Important Legal Notice (**Exhibit 10**):

ReconTrust Company, N.A., acting in its capacity as agent for the beneficiary, is required by law to advise you of the following:  
RECONTRUST COMPANY, N.A. is attempting to collect a debt and any information it obtains will be used for that purpose.

The name of the Creditor to whom the debt is owed: BAC Home Loans Servicing, LP. As of the date of this letter, you owe \$349,720.60. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check in which event we will inform you before depositing the check for collection.

79. On December 29, 2010, a Corporation Assignment of Deed of Trust was filed with the Clark County Recorder's Office as ins#2010.1229.3426.

80. The December 29, 2010 Corporation Assignment purports to assign all right, title and interest in Plaintiff's Deed of Trust to BAC Home Loans Servicing, LP, f/k/a Countrywide Home Loans Servicing, LP.

81. The December 29, 2010 Corporation Assignment was executed by Jorge Valadez for MERS, without disclosure of his employment with Assignee, (*see Exhibit 7*).

82. The December 29, 2010 Corporation Assignment was notarized by Kamra Walker, (*see Exhibit 7*).

83. The December 29, 2010 Assignment occurred approximately four years after the Closing Date of the Trust and is in violation of the Trust Agreement, and therefore, void.

84. On December 31, 2010, Bank of America sent Plaintiff a letter:

We have not received your past due payments, so we have referred your home loan to our Foreclosure Review Committee for review. This does not necessarily mean you will lose your home to foreclosure. We want to work with you and are here to help, so please read below about the various options available through BAC Home Loans Servicing, LP to help you avoid foreclosure.

85. On December 30, 2010, ReconTrust Company, N.A., sent to Plaintiff notice:

**NEVADA IMPORTANT NOTICE  
NOTICE OF DEFAULT/ELECTION TO SELL UNDER DEED OF TRUST  
NOTICE IS HEREBY GIVEN THAT:  
RECONTRUST COMPANY, N.A., is acting as an agent for the  
Beneficiary under a Deed of Trust dated 11/06/2006...along with STATE  
OF NEVADA FORECLOSURE MEDIATION PROGRAM,  
ELECTION/WAIVER OF MEDIATION FORM.**

86. On January 5, 2011, BAC sent to Plaintiff Notice (Exhibit 11).

Our records show that this loan is in foreclosure. Per your request, we have enclosed information concerning the reinstatement of this loan.

**THIS REINSTATEMENT CALCULATION IS ONLY GOOD THROUGH 01/14/2011.**

1 Monthly Payments @ \$2,660.24  
3 Monthly Payments @ 2,451.94

For certain loan types, monthly payments in default will be calculated based on the Minimum Payment due, as defined in your loan documents.

Accrued Late Charges:	\$0.00
Uncollected Late Charges:	\$357.78
Escrow Deficiency:	\$0.00

Property Inspection Fees:	\$15.00
Property Preservation Fees:	\$0.00
Foreclosure Attorney/Trustee Fees:	\$300.00
Foreclosure Expenses:	\$378.34
Bankruptcy Attorneys' Fees:	\$0.00
Bankruptcy Expenses:	\$0.00
Other/Miscellaneous Fees:	\$50.00
RETURN PAYMENT FEE:	\$50.00

Sub-Total:	\$11,117.18
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Suspense/Partial Payment:	(\$1,977.60)
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<b>*Total Due:</b>	\$9,139.58
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Fees Waived in FULL Reinstatement:	\$0.00
Title Fees:	\$300.00
Foreclosure Attorney/Trustee Fees:	\$300.00
Total Fees Waived:	\$300.00

<b>*Net Total Due:</b>	\$8,839.58
------------------------	------------

**\*The Net Total Due reflects the waiver of Foreclosure Attorney/Trustee Fees and/or Title fees (included within Foreclosure Expenses) incurred in processing the foreclosure.** This waiver is to assist you in bringing your loan current and is available if you pay the full Net Total Due. However, if you only pay a portion of the Net Total Due or require other assistance in bringing your loan current, these fees will not be waived. You then will be required to pay the Total Due.

87. On January 13, 2011, ReconTrust sent Plaintiff a copy of the November 6, 2006 NOTE.

Lender is MidFirst Bank, A Federally Chartered Savings Assoc.

88. On January 26, 2011, a Rescission of Notice of Default was filed with the Clark County Recorder's Office as ins#2011.126.3216.

89. On February 11, 2011, Bank of America issued Check No. 0004435963 to Plaintiff in the amount of \$1,548.81 for escrow overages, (**Exhibit 12**).

1           90.     On March 8, 2011, BAC sent Plaintiff a Notice:

2           BAC Tax Services Corporation, at the request of BAC Home Loans  
3           Servicing, LP, has completed a property tax review of your property. BAC  
4           Home Loans Servicing, LP has learned that there are delinquencies associated  
5           with your property. As a result, it has advanced funds to pay the  
6           delinquencies owing, including any penalties, interest, other fees, and if  
7           available, any property taxes due within 45 days, in order to protect its interest  
8           in the property.

9           91.     On June 17, 2011, Bank of America sent to Plaintiff a letter, (**Exhibit**  
10           13):

11           Recently, we found **you may not have received advance notice of a pricing**  
12           **change that took place in December 2010.** The monthly maintenance fee  
13           for your account referenced above increased in December 2010. Since this  
14           time, if you paid a monthly fee, you were charged the new amount. Because  
15           you may not have received advance notice of this change, your account will  
16           be credited for the increased fee amount each time it is charged on your  
17           statements that have a cycle and date from December 2010 through July 2011.

18           92.     On or around July 2011, Bank of America sent NOTICE OF  
19           ASSIGNMENT, SALE, OR TRANSFER OF SERVICING RIGHTS...from BAC  
20           Home Loans Servicing, LP to Bank of America, N.A., effective July 1, 2011.

21           93.     On November 9, 2011, Bank of America sent NOTICE OF  
22           ASSIGNMENT, SALE, OR TRANSFER OF SERVICING RIGHTS.

23           You are hereby notified that the servicing of your mortgage loan, that is, the  
24           right to collect payments from you, is being assigned, sold or transferred from  
25           Bank of America, N.A. to Green Tree Servicing LLC effective December 01,  
26           2011.

27           94.     On November 22, 2011 Green Tree sent Plaintiff:

28           NOTICE OF ASSIGNMENT, SALE, OR TRANSFER OF SERVICING  
29           RIGHTS.

30           You are hereby notified that the servicing of your mortgage loan, that is, the  
31           right to collect payments from you, is being assigned, sold or transferred from  
32           Bank of America, N.A. to Green Tree Servicing LLC ("Green Tree") effective  
33           December 1, 2011.

1                   This communication is from a debt collector. It is an attempt to collect a debt,  
2                   and any information obtained will be used for that purpose.

3                   95.     Green Tree was in contact with Plaintiff and sent Plaintiff a Borrower  
4                   Response Package to complete in order to be evaluated for a loan modification.

5                   96.     Plaintiff complied with Green Tree's request and sent a letter, along  
6                   with submitting all the required financial documentation to be evaluated for a loan  
7                   modification.

8                   97.     From November 22, 2011, to August 19, 2005, Green Tree sent  
9                   correspondence to Plaintiff either acknowledging receipt of request for information,  
10                  and advised Plaintiff that Green Tree was in the process of reviewing the account and  
11                  servicing files and other information in order to fully investigate Plaintiff's inquiry.

12                  98.     On August 19, 2015, Green Tree sent correspondence to Plaintiff  
13                  regarding loss mitigation options, including refinancing, loan modification and  
14                  forbearance. Green Tree encouraged Plaintiff to contact Green Tree regarding  
15                  options available.

16                  99.     On April 26, 2013, a Corporate Assignment of Deed of Trust was filed  
17                  with the Clark County Recorder's Office as ins#2013.426.2558.

18                  100.    The April 26, 2013 Corporate Assignment was executed by Deborah  
19                  Turner Bey on behalf of MERS, without her disclosing her true employment with  
20                  Assignee, (*see Exhibit 7*).

21                  101.    The April 26, 2013 Corporate Assignment was notarized by Wendy  
22                  Ramirez, (*see Exhibit 7* ).  
23  
24  
25

1           102. The April 26, 2013 Corporate Assignment purports to assign all right,  
2 title and interest in Plaintiff's Deed of Trust to Green Tree Servicing, LLC.

3           103. The April 26, 2013 Corporate Assignment occurred approximately  
4 seven years after the Closing Date of the Trust and is in violation of the Trust  
5 Agreement, and is therefore, void.

6           104. On June 4, 2013, National Default Servicing Corporation sent a letter  
7 to Plaintiff:

8           This firm has been retained to enforce the terms of the above referenced loan  
9 by non-judicial foreclosure.

10          The creditor (current beneficiary) to whom the debt is owed is: Green Tree  
11 Servicing LLC. The loan servicer is: Green Tree Servicing LLC.

12          105. On June 23, 2013, Fannie Mae Mortgage Help Center sent Plaintiff an  
13 Introductory Letter which states in pertinent part:

14          Because Fannie Mae is the owner of your loan, we can work directly with  
15 your mortgage company to assess your situation and determine what options  
16 may be available to you.

17          Your mortgage loan that is serviced by Green Tree is currently delinquent and  
18 you may soon be facing foreclosure... Your loan is owned by Fannie Mae and  
19 that allows you access to a Fannie Mae Mortgage Help Center where you can  
20 receive personalized assistance and support. The Center...is designed to  
21 assist homeowners who may be struggling with their mortgage payments and  
22 all services are completely free. Benefits to you: one-on-one mortgage  
23 assistance from experienced housing counselors; understand your options and  
24 what solutions might work for your situation; get help completing paperwork  
25 and starting the process with your mortgage company; have an advocate  
working for you to resolve your payment problems and ensure timely  
decisions regarding your mortgage.

26          106. From on or around June 2013 to June 2014, Plaintiff was in contact  
27 with Jessie Mae Suttle, Contractor, Fannie Mae Mortgage Help Center, who  
28 requested by letter and email required forms and supporting documentation from  
29 Plaintiff to evaluate her eligibility for a loan modification. She had complied and sent

1 and resent financial documents with the assurances from Fannie Mae that Plaintiff  
2 would receive assistance “through the Nevada Hardest Hit Fund.” Fannie Mae sent  
3 multiple KnowYourOptions packets through Nevada’s Hardest Hit Fund.

4 107. On June 14, 2014, Ms. Suttle requested by email Plaintiff’s “current  
5 paystubs for May and current bank statements for May. “Please completed the  
6 application and the privacy policy, 4506-t.” [sic].

7 108. On December 23, 2013, Plaintiff spoke with “Ron,” where he stated  
8 Plaintiff would be eligible for a HAMP modification in a trial period, interest rate at  
9 4%, for 40 years; requested that Plaintiff write a hardship letter, proof of income, sign  
10 the Uniform Borrower Assistance Form 710 included in the packet, and reassured  
11 Plaintiff that Fannie Mae would not want to go through foreclosure.  
12

13 109. On September 3, 2014, Plaintiff sent a final email to Ms. Suttle to  
14 check on the status of the modification:

15 I have not heard from Fannie Mae with regard to the modification of my loan.  
16 Please immediately contact me.

17 110. Ms. Suttle never responded to Plaintiff’s email request.

18 111. On March 10, 2015, Plaintiff made a “qualified written request” of  
19 Ditech pursuant to the Real Estate Settlement Procedures Act (RESPA). The letter  
20 requested answers to 98 questions.

21 112. On October 12, 2015, National Default Servicing sent to Plaintiff,  
22 NOTIFICATION PURSUANT TO NEVADA REVISED STATUTES  
23 107.080(2)(c)(3). Servicer: Ditech Financial LLC.

24 113. On November 17, 2015, Fannie Mae Mortgage Help Center sent  
25 another KnowYourOptions form letter to Plaintiff and informing Plaintiff:



1  
2 "Because Fannie Mae is the owner of your own, we can work directly with  
3 your mortgage company to assess your situation and determine what options  
4 may be available to you.

5 114. On December 7, 2015, National Default Servicing sent to Plaintiff a  
6 copy of the November 6, 2006 NOTE: "The lender is MidFirst Bank, A Federally  
7 Chartered Savings Assoc.," and a NOTE ENDORSEMENT ALLONGE, (**Exhibit**  
8 **14**), signed by Natalie D. Jones, Vice President of MidFirst Bank. The allonge did  
9 not identify the note it was attached to and was not notarized.

10 115. On July 31, 2015, a Corporate Assignment of Deed of Trust was filed  
11 with the Clark County Recorder's Office as ins#2015.731.0322.

12 116. The July 31, 2015 Corporate Assignment was executed by Kathy  
13 Jackson & Gregory W. Blackmer on behalf of Bank of America, NA, without  
14 disclosing their true employment with Assignee, (*see Exhibit 7*).

15 117. The July 31, 2015 Corporate Assignment was notarized by James  
16 Raulerson, (*see Exhibit 7*).

17 118. The July 31, 2015 Corporate Assignment purports to assign all right,  
18 title and interest in Plaintiff's Deed of Trust to Green Tree Servicing, LLC.

19 119. The July 31, 2015 Corporate Assignment occurred approximately nine  
20 years after the Closing Date of the Trust and is in violation of the Trust Agreement,  
21 and is therefore, void.

22 120. From September 2, 2015, to the present, Ditech Financial LLC has  
23 sent correspondence to Plaintiff and requesting Plaintiff to contact Ditech to discuss  
24 loss mitigation options. Plaintiff also sent financial documentation as requested from  
25

1 Green Tree. Defendant has repeatedly and continually violated 15 U.S.C. § 1692(f),  
2 using unfair or unconscionable means to collect or attempt to collect a debt.  
3 Specifically, Ditech knew they were and are not entitled to collect on the debt.  
4 Ditech's correspondence to Plaintiff was harassing, oppressive, abusive, unfair, and  
5 misleading pursuant to §§ 1692d, 1692f, and 1692e(2). Plaintiff challenges Ditech's  
6 right to foreclose due to an arbitrator's earlier ruling issuing a Certificate of Non-  
7 Foreclosure and disputes that Ditech has a legal right to and requests an injunction  
8 against Ditech from further foreclosure proceedings.  
9

10 121. On March 24, 2016, Ditech sent Plaintiff correspondence and stated in  
11 pertinent part:

12 As a result of your submission of a loan modification application, Ditech and,  
13 in limited circumstances your investor, Fannie Mae, are required to provide  
14 you with a copy of all written appraisals or valuations created or developed in  
15 connection with your application.

16 122. On March 25, 2016, Ditech finally sent Plaintiff correspondence and  
17 made the following representation more than 5 years after Fannie Mae stopped  
18 corresponding with Plaintiff:

19 **You were evaluated for mortgage payment assistance based upon the  
20 eligibility requirements of Fannie Mae, the owner of your mortgage  
21 account.**

22 123. On December 4, 2015, a Notice of Default was filed with the Clark  
23 County Recorder's Office as ins#2015.1204.2853 by National Default Servicing.

24 124. There are no recorded Substitution of Trustee filed with the Clark  
25 County Recorder's Office as required by NRS 107.028.

1           125. Plaintiff alleges that only the Depositor is the rightful party that can  
2 convey the asset into the trust pursuant to investor offering documents as filed with  
3 the Securities and Exchange Commission.

4           126. On December 14, 2015, Plaintiff sent to Ditech a “qualified written  
5 request.” The letter requested answers to 35 questions. Ditech did not respond in  
6 violation of mortgage servicing rules under RESPA Reg. X.

7           127. On December 29, 2015, Plaintiff elected to enroll and participate in the  
8 State of Nevada Foreclosure Mediation Program.

9           128. On January 22, 2016, the mediator sent to the parties a Notice to  
10 Appear, **(Exhibit 15)**.

11  
12 Failure by the beneficiaries of the deed of trust, or their representatives, to  
13 attend and participate at the mediation in good faith or to bring all requisite  
14 documents and authorities to the mediation, shall result in the mediator  
15 preparing and submitting a statement to the Foreclosure Mediation Program  
16 Administrator of the facts which may result in an inability to proceed with the  
17 foreclosure. All parties are herein noticed to comply with Rule 12 of the  
18 Foreclosure Mediation Program. The parties shall participate in a document  
19 conference or meet with the mediator to determine what the beneficiary needs  
20 to make a final decision. All required statements, disclosure forms, and  
documents must be submitted to the presiding mediator at least 10 days prior  
to the scheduled mediation, unless otherwise agreed. Pursuant to Rule 16 of  
the Foreclosure Mediation Rules, in the event the foreclosure issues are  
resolved before the scheduled mediation, the parties must, no later than two  
business days prior to the scheduled mediation date, notify the mediator of  
their settlement. Failure to abide by Rule 16 may subject the parties to  
sanctions.

21 All beneficiaries of the deed of trust or assignees, or their representatives, who  
22 are seeking to invoke foreclosure against a homeowner, shall participate in the  
23 foreclosure mediation program, and shall be represented at all times during a  
24 mediation by a person or persons who have the authority to modify the  
underlying loan, and who shall bring to the mediation the following  
documents:

25 The original or a certified copy of the deed of trust;

The original or certified copy of the mortgage note;  
 Each assignment of the deed of trust;  
 Each assignment or endorsement of the mortgage note; and,  
 an appraisal or Brokers Price Opinion (BPO) dated not more than 60 days  
 prior to the date of the mediation.  
 The homeowner and lender representative with authority to modify the  
 underlying loan shall be physically present, or, if approved by the mediator,  
 may participate by phone for good cause.

129. On February 22, 2016, Michael Carrigan prepared a Property  
 Securitization Analysis Report and confirmed a break in the chain of title: (*see*  
**Exhibit 7**).

**No Recorded Substitution of Trustee as mandated by Nevada NRS  
 107.028 Appointment of Successor Trustee by Beneficiary**

130. A hearing was held on March 3, 2016 before the State of Nevada  
 Foreclosure mediator who denied a Certificate of Foreclosure (*see Exhibit 3*):

**PART 2D: BENEFICIARY (LENDER) PARTICIPATION**

*If any item is checked below, the mediator may recommend sanctions.  
 (Determine specific sanction recommendations with particularity in Part 2E).*

**Beneficiary (Lender), and/or its Representative, failed to demonstrate  
 authority, or provide access to a person with authority, to negotiate a loan  
 modification. (NRS 107.086(5); FMP Rule 11(1)(a))**

**Beneficiary (Lender), and/or its Representative, failed to bring to  
 mediation each document required. (NRS 107.086(5); FMP Rule 12(7)  
 (Check All Missing or Incomplete Documents):**

*A certification with an original signature of each assignment of the deed of  
 trust (DOT), or judicial order pursuant to NRS 104.3309.*

**A foreclosure Certificate should not issue.**

131. On May 15, 2016, Plaintiff sent MidFirst a letter (**Exhibit 16**)  
 requesting the bank's copy of the Assignment of Mortgage Deed of Trust and any

1 Exhibits attached, pursuant to the Nevada Uniform Commercial Code. MidFirst did  
2 not respond.

3 132. Clearly, National Default Servicing did not participate in the mediation  
4 in good faith.

5 133. Plaintiff attributes her injuries to Defendants' baseless foreclosure  
6 litigation despite Defendants' lack of interest in the mortgage resulting in incurring  
7 damages when Plaintiff is compelled to defend her interests.

8 134. Well after the State of Nevada Foreclosure Mediation Program  
9 announced on its website that the program will end and that all mediations must be  
10 completed by April 30, 2017, National Default Servicing nevertheless proceeded with  
11 foreclosure by recording another Notice of Default and Notice of Trustee's Sale after  
12 the period to file for mediation had expired.

13 135. Defendants' deceptive conduct consists of Defendants' initiation of  
14 unfair, misleading and abusive legal process against Plaintiff having to defend herself  
15 against the foreclosure action and Defendants' concurrent agreement to execute a  
16 fraudulent assignment and to falsify court documents clouding title to her home.

17 136. Based on information and belief, NRS 107.086(6) require that a  
18 beneficiary have someone present at the mediation with the authority to modify a  
19 loan. National Default Servicing demonstrated that it had no intention to negotiate in  
20 good faith before the mediation occurred, nor had the authority to modify Plaintiff's  
21 loan as represented.  
22  
23  
24  
25

1           137. National Default Servicing waived its right to file for judicial review  
2 and undisputedly failed to timely take actions to enforce its rights under the First Note  
3 and the First Deed of Trust.

4           138. Based on information and belief, because National Default Servicing  
5 failed to provide the mandatory documents to establish its right to foreclose on the  
6 Real Property and then later failed to challenge the Certificate of Non-Foreclosure  
7 with the ability to enforce the 1<sup>st</sup> Deed of Trust, National Default Servicing is barred  
8 from pursuing non-judicial foreclosure with the ability to enforce the 1<sup>st</sup> Deed of  
9 Trust.  
10

11           139. Following the arbitrator's ruling, National Default Servicing filed  
12 another Notice of Default knowing that the State of Nevada Foreclosure Program  
13 Mediation Program had closed resulting in prejudicing and frustrating Plaintiff's right  
14 to a fair hearing which foreclosed the possibility of securing a loan modification.

15           140. Defendants used various schemes to mislead Plaintiff and thus  
16 attempted fraudulently to deprive Plaintiff of her home through an illegitimate  
17 foreclosure sale. Those schemes to defraud revolved around a fraudulent mortgage  
18 assignment and related foreclosure actions to seize title to Plaintiff's home through an  
19 illegitimate foreclosure sale.  
20

21           141. The allegedly fraudulent assignment allowed Defendants to perpetrate  
22 and conceal the fraud by failing to file an appeal which precluded the state court from  
23 ascertaining whether Defendants were the proper parties to initiate the foreclosure  
24 proceedings. On these facts alone, it was Defendants' misrepresentations that  
25

1 triggered the ongoing and continuing fraudulent conduct by Defendants that led to  
2 Plaintiff's injuries.

3 142. Had the proper mortgagee, whoever that is, elected to initiate its own  
4 foreclosure proceedings against Plaintiff, she would have faced double liability, and  
5 Defendants' fraudulent assignment would lead to the unlawful result of two separate  
6 mortgagees – one legitimate and one illegitimate – foreclosing on Plaintiff's home.  
7 The fact that the legitimate mortgagee has not initiated foreclosure proceedings only  
8 reinforces the conclusion that Defendants' allegedly fraudulent foreclosure will lead  
9 to Plaintiff's injury  
10

11 143. Defendants were not authorized to initiate the baseless foreclosure  
12 proceedings thus injuring Plaintiff by attempting to cause further unnecessary delay  
13 and imposed an additional financial burden on Plaintiff by having to defend against  
14 Defendants' baseless foreclosure and fraudulent conduct.

15 144. Plaintiff suffered damages by means of incurring a financial obligation  
16 for illicit payments received by Defendants, through the mechanism of increasing  
17 Plaintiff's debt to third-party lenders, which engaged the services of the collection  
18 agencies.

19 **FIRST CAUSE OF ACTION**

20 **DEFENDANTS' LACK OF STANDING/ NRS 107.086(4)**

21 **STATUTORILY DEFECTIVE FORECLOSURE**

22 **A. No Defendant Has Standing to Foreclose**

23 145. Plaintiff re-alleges all preceding paragraphs in their entirety.  
24  
25

1           146. An actual controversy has arisen and now exists between Plaintiff and  
2 Defendants specified hereinabove, regarding their respective rights and duties, in that  
3 Plaintiff contends that Defendants, and each of them, do not have an equitable right to  
4 foreclose on the Property because Defendants, and each of them, have failed to perfect  
5 any security interest in the Real Property collateral, or cannot prove to the court they  
6 have a valid interest as a real party in interest to the underlying Deed of Trust. Thus,  
7 the purported power of sale, or power to foreclose non-judicially, by the above  
8 specified Defendants, and each of them, no longer applies.  
9

10           A non-judicial foreclosure may only occur in Nevada upon demonstration that  
11 the foreclosing party is both the current beneficiary of the deed of trust and the current  
12 holder of the promissory note. *Bergenfield v. Bank of Am.*, 302 P.3d 1141 (Nev. 2013).  
13 Further, a party seeking a non-judicial foreclosure must strictly comply with the  
14 statutes governing foreclosure.

15           Defendants violated the good faith requirements of NRS 107.080, the filing of  
16 the Default was wrongful to the extent that Defendants' failure to provide a detailed  
17 accounting that Plaintiff would have to pay to protect the property from foreclosure  
18 constitutes a breach of the statute, but also that Defendants' refusal to produce any of  
19 the required documentation constitutes breach of good faith which interfered with and  
20 prejudiced Plaintiff's opportunity to a fair and equitable foreclosure mediation process.  
21

22           147. Plaintiff requests this Court find that the purported power of sale  
23 contained in the Deed of Trust is a nullity by operation of law, because Defendants'  
24 actions in the processing, handling and attempted foreclosure of this §1031 - Exchange  
25 involved numerous fraudulent, false, deceptive and misleading practices, including,



1 but not limited to, violations of Federal and Nevada State laws designed to protect  
2 borrowers, which has directly caused Plaintiff to be at an equitable disadvantage to  
3 Defendants, and each of them. Plaintiff further requests that title to the Real Property  
4 remain in Plaintiff's name during the pendency of this litigation, and deem that any  
5 attempted sale of the Real Property is "unlawful and void."

6 148. But for Bank of America's creating an illegal escrow account, collecting  
7 unlawful sums that breached the loan agreement which interfered with Plaintiff making  
8 loan payments, Plaintiff would not have been delinquent all in violation of the Deed of  
9 Trust, RESPA and Nevada laws. On these facts, it was Defendants' alleged  
10 misrepresentations in attempts to seize Plaintiff's home through unauthorized  
11 foreclosure actions rather than Plaintiff being delinquent on making loan payments that  
12 led to her injuries.  
13

14 149. Plaintiff alleges that Defendants initiating a foreclosure would not have occurred  
15 against Plaintiff but for Defendants' alleged malicious conduct when they formulated  
16 false documents with the knowledge of their falsity resulting in an improper transfer  
17 of interests for seizing Plaintiff's property through committing acts of statutory fraud.  
18

19 150. Defendants' acts and omissions have proximately caused Plaintiff actual damages,  
20 including, but not limited to severe emotional distress, loss of sleep, frustration, anger,  
21 fear, anxiety, and irreparable harm to the right of peaceful enjoyment of one's property  
22 and the imminent threat of losing one's home through an unauthorized foreclosure.

23 151. As such, upon information and believe, Plaintiff asserts a viable claim that  
24 Defendants violated NRS 107.080 and that the Trustee's Sale must be enjoined and  
25 barred until such time as Defendants comply with NRS 107.080.

1 152. Pursuant to NRS 107.080, the Nevada Legislature recognized damages for  
2 failure to comply with NRS 107.080 as creating a claim for damages in the amount of  
3 \$5,000 or treble actual damages and attorney's fees.

4 153. This remedy is in addition to other remedies at law.

5 **B. Defendant MERS Cannot be a Real Party in Interest in a Securitized**  
6 **Mortgage**

7 154. Since the creation of Defendant's Deed of Trust, Defendant MERS was  
8 named the "nominee beneficiary" of the Deed of Trust.

9 155. Plaintiff is informed and believes, and thereon alleges that Defendant  
10 MERS lacks the authority under its corporate charter to foreclose a Deed of Trust, or  
11 to own or transfer an interest in a Tangible Note debt obligation because MERS charter  
12 limits MERS' powers and duties to functioning as an electronic registration system of  
13 Payment Intangible Chattel Paper Transferable Records as the underlying collateral to  
14 the Tangible Note for Accommodation Bill of Exchange.

15 156. Plaintiff is informed and believes, and thereon alleges that to conduct a  
16 foreclosure action, a person or entity must have legal capacity as an interested party  
17 and standing.

18 157. The Tangible Note in this action identifies the entity to whom it  
19 accommodated, the Originator. Therefore, the Tangible Note herein cannot be  
20 transferred in the ordinary course of business. The attachments to the notice of default  
21 do not establish that indorsements were made, nor are there any other notices, which  
22 establish that a Tangible Note negotiation was executed in the ordinary course of  
23  
24  
25

1 business, nor are there any other notices, which establish that the Originator sold the  
2 Tangible Note to another party for full value.

3 158. Furthermore, insofar as the parties to the §1031 - Exchange of  
4 Defendants' purported transfer of enforcement contract rights over the underlying  
5 Deed of Trust base their claim that the Tangible Note and underlying Security was  
6 negotiated by operation of law in the ordinary course of business to Defendant Fannie  
7 Mae, the Trustee of the § 1031 - Exchange herein, by the Originator, it is well  
8 established by Nevada State law that the assignment of a Deed of Trust does not  
9 automatically assign the Tangible Note nor the underlying Payment Intangible  
10 Transferrable Record, as the security interest is incident to the Tangible Note debt  
11 obligation.  
12

13 159. Pursuant to Nevada State law, one must be able to prove their capacity  
14 of holder of the Tangible Note as one with rights acquired in the ordinary course of  
15 business to perfect the transfer of enforcement contract rights to the Deed of Trust  
16 instrument as collateral for a Tangible Note debt obligation. Without proper  
17 negotiation and physical transfer, the "true sale" of the Tangible Note is invalid as a  
18 fraudulent conveyance, or as an unsecured Tangible Note stripped of the Real Property  
19 collateral.  
20

21 160. Defendants MERS failed to submit documents authorizing MERS, as  
22 nominee beneficiary for the Originator, to assign the subject Deed of Trust to the  
23 Special Purpose Vehicle trustee. Hence, MERS lacked authority as mere nominee  
24 beneficiary to assign Plaintiff's Deed of Trust, making any assignment from MERS  
25 defective. In Nevada, MERS may have the power to *initiate* foreclosure as an agent,

1 but only when *authorized* by a principal which is both the beneficiary of the deed of  
2 trust and the holder of the note.

3 161. Any attempt to transfer the beneficial interest of a trust deed without  
4 actual ownership of the underlying Tangible Note attached together in one with the  
5 underlying Payment Intangible Transferable Record, is void under law. Therefore,  
6 Defendant MERS cannot establish that it is entitled to assert a claim in this case. For  
7 this reason, as well as the other reasons set forth herein below, MERS cannot transfer  
8 an interest in Plaintiff's Real Property and cannot recover anything from Defendants'  
9 with unclean hands.  
10

11 162. Defendants, and each of them, through the actions alleged above, claim  
12 the right to illegally commence foreclosure sale of Plaintiff's Real Property under the  
13 Deed of Trust on the Real Property via an *in Rem* action supported by false or  
14 fraudulent documents. Said unlawful foreclosure action has caused and continues to  
15 cause Plaintiff great and irreparable injury in that Real Property is unique.

16 163. The wrongful conduct of the above-specified Defendants, and each of  
17 them, unless restrained and enjoined by an Order of the Court, will continue to cause  
18 great and irreparable harm to Plaintiff. Plaintiff will not have the beneficial use and  
19 enjoyment of the Home and will lose the Property.  
20

21 164. Plaintiff has no other plain, speedy or adequate remedy and the  
22 injunctive relief prayed for below is necessary and appropriate to prevent imminent  
23 irreparable loss to Plaintiff. Plaintiff suffered and will continue to suffer unless  
24 Defendants' wrongful conduct is restrained and enjoined because Real Property is  
25

1 inherently unique and it will be impossible for Plaintiff to determine the precise amount  
2 of damage she will suffer.

3 **SECOND CAUSE OF ACTION**

4 **FRAUD IN THE CONCEALMENT**

5 **(Against Defendant MidFirst Bank)**

6  
7 165. Plaintiff re-alleges all preceding paragraphs in their entirety.

8 166. Generally, one must prove the following to bring a legally sufficient  
9 claim of Fraudulent Concealment.

- 10 a. Concealed or suppressed a material fact;  
11 b. Had knowledge of this material fact;  
12 c. That this material fact was not within reasonably diligent attention,  
13 observation, and judgment of the Plaintiff;  
14 d. That the Defendant suppressed or concealed this fact with the  
15 intention that Plaintiff be misled as to the true condition of the property; and  
16 e. That Plaintiff was reasonably so misled; and  
17 f. That Plaintiff suffered damage.

18 167. Defendant MidFirst Bank concealed the fact that they were not a  
19 Federal Reserve Depository Bank. The purported lender claims to have accepted by  
20 negotiation the issuer, Plaintiff's negotiable instrument, as debtor in a deposit  
21 account. Defendant MidFirst Bank furthered their deception by purporting to give  
22 consideration for an instrument in the form of real money executing an underlying  
23 obligation (indebtedness) between the parties to the purported contract. Defendant  
24 MidFirst Bank concealed in the presentation of the terms of the Mortgage contract a  
25 cross acceptance of which Plaintiff, the issuer of the negotiable instrument would  
accept ownership of the real property collateral evidenced by the Warranty Deed for  
executing an accommodation negotiable instrument, and pledged security agreement

1 on behalf of MidFirst Bank, the Accommodated party, for the purpose of a material  
2 variation to the purported contract in which Plaintiff would be acting as a **Guarantor**  
3 for MidFirst Bank, the Accommodated party, to use Plaintiff's accommodation  
4 party's promise to put the accommodated into funds as surety and a personal property  
5 security interest in Plaintiff's pledged security instrument as collateral to secure their  
6 account debtor status for the purpose of a §1031 – Exchange (table funded)  
7 transaction for a service release premium shortly after the closing of the purported  
8 loan. Defendant MidFirst Bank concealed a third-party Sponsor Bank warehouse  
9 lender as well as the terms of the Securitization Agreements including, inter alia: (1)  
10 Financial Incentives paid; (2) existence of Credit Enhancement Agreements, and (3)  
11 existence of Acquisition Provisions. By concealing the securitization, the true  
12 character of the purported loan in this way had a materially negative effect on  
13 Plaintiff that was known by Defendant MidFirst Bank but not disclosed.

15 168. Defendant MidFirst Bank knew or should have known that there was  
16 no meeting of the minds between Plaintiff and the Originator MidFirst Bank  
17 regarding the true capacity of the parties and material facts of the purported loan and  
18 that most importantly, it created no indebtedness underlying obligation between the  
19 Defendants and other parties to the § 1031 – Exchange.

20 169. Defendant MidFirst Bank knew or should have known that had the  
21 truth been disclosed, Plaintiff would not have pledged a security agreement to  
22 MidFirst Bank, the Accommodated Party, as an alternate means of collection.

23 170. Defendant MidFirst Bank intended to induce Plaintiff based on these  
24 material misrepresentations and improper disclosures.  
25

1           171. Plaintiff's reasonable reliance upon the misrepresentations was  
2 detrimental. But for Defendant's failure to disclose the true and material terms of  
3 the transaction, Plaintiff could have been alerted to issues of concern. Plaintiff would  
4 have known of Defendant's true intentions and profits from the proposed purported  
5 loan. Plaintiff would have known that the actions of Defendant MidFirst Bank would  
6 have an adverse effect on the value of Plaintiff's home by clouding the title.

7           172. Defendant's failure to disclose the material terms of the transaction  
8 induced Plaintiff to enter the §1031 – Exchange purported loan and accept the  
9 Services as Accommodated Party herein.  
10

11           173. Defendants were aware of the misrepresentations and profited from  
12 them.

13           174. As a direct and proximate result of the misrepresentations and  
14 concealment, Plaintiff was damaged in an amount to be proven at trial, including but  
15 not limited to costs of the loan, damage to Plaintiff's financial security, emotional  
16 distress, and Plaintiff incurred costs and attorney's fees.

17           175. Defendant MidFirst Bank is guilty of malice, fraud and/or oppression.  
18 Defendants' actions were malicious and done willfully in conscious disregard of the  
19 rights and safety of Plaintiff in that the actions were calculated to injure Plaintiff. As  
20 such, Plaintiff is entitled to recover in addition to actual damages, punitive damages  
21 to punish Defendant and to deter them from engaging in future misconduct.  
22

### 23           **THIRD CAUSE OF ACTION**

#### 24           **FRAUD IN THE INDUCEMENT**

25           176. Plaintiff re-alleges all preceding paragraphs in their entirety.

1           177. Defendants, intentionally misrepresented to Plaintiff that Defendants  
2 were entitled to exercise the power of sale provision contained in the Deed of Trust.  
3 In fact, Defendants were not entitled to do so and have no legal, equitable, or actual  
4 beneficial interest whatsoever in the Property.

5           178. Defendants misrepresented that they are the “holder and owner” of the  
6 Tangible Note and the beneficiary of the Deed of Trust; however, this was not true and  
7 was a misrepresentation of material fact. The documents state that the Originator  
8 allegedly sold the mortgage loan instrument to FNMA 2006-123 Trust. Defendants  
9 are attempting to collect on an intangible debt obligation via the §1031 – Exchange to  
10 which they have no legal, equitable, or pecuniary interest relating to Plaintiff’s Real  
11 Property. This type of conduct is outrageous. Defendants are fraudulently foreclosing  
12 on the Real Property which they have no monetary or pecuniary interest, and doing so  
13 with unclean hands.  
14

15           179. Defendant’s failure to disclose the material terms of the transaction  
16 induced Plaintiff to enter the §1031 – Exchange and accept the Accommodated  
17 Services as alleged herein.

18           180. The material misrepresentations were made by Defendants with the  
19 intent to cause Plaintiff to reasonably rely on the misrepresentation to induce Plaintiff  
20 to submit to the foreclosure on the Real Property as opposed to recovering from  
21 predecessors in the § 1031 – Exchange on the Payment Intangible Obligation.  
22

23           181. Defendants were aware of the misrepresentations and attempt to profit  
24 from them by seizing Plaintiff’s home.  
25



1           182. As a direct and proximate result of the misrepresentations and  
2 concealment, Plaintiff was damaged in an amount to be proven at trial, including but  
3 not limited to costs of the loan, damage to Plaintiff's financial security, emotional  
4 distress, and Plaintiff incurred attorney's fees and costs.

5           183. Defendants are guilty of malice, fraud and/or oppression. Defendants'  
6 actions were malicious and done willfully in conscious disregard of the rights and safety  
7 of Plaintiff in that the actions were calculated to injure Plaintiff. As such, Plaintiff is  
8 entitled to recover in addition to actual damages, punitive damages to punish Defendants  
9 and to deter them from engaging in future misconduct.

#### 11                           **FOURTH CAUSE OF ACTION**

#### 12           **(Violations of the Racketeer Influenced and Corrupt Organizations Act (RICO))**

13           184. Plaintiff re-alleges all preceding paragraphs in their entirety.

14           185. Defendants are liable to Plaintiff under the Racketeer Influenced and Corrupt  
15 Organizations Act, 18 U.S.C. § 1961, *et seq.*, ("RICO").

16           186. Plaintiff is informed and believes, and thereon alleges that Defendants formed,  
17 assisted in, implemented, and/or took part in an enterprise devised to defraud Plaintiff  
18 of its interest in the Subject Property.

19           187. Plaintiff is informed and believes, and thereon alleges that Natalie D. Jones,  
20 Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy Jackson, Gregory  
21 W. Blackmer and James Raulerson assisted in, implemented, and/or took part in the  
22 actions described herein.

23           188. Plaintiff is informed and believes, and thereon alleges that Defendants and  
24  
25

1 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
2 Jackson, Gregory W. Blackmer and James Raulerson used the Clark County Recorder  
3 in the furtherance of their enterprise with a similar pattern and method of commission.

4 189. Defendants' acted with other entities with respect to Plaintiff's loan who are  
5 and were each a person as defined in 18 U.S.C. § 1961(3) at all times relevant to this  
6 transaction.

7 190. The ongoing association of Defendants and its agents and employees, and  
8 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
9 Jackson, Gregory W. Blackmer and James Raulerson, and other entities are linked by  
10 their actions described herein sufficiently form an enterprise as defined in 18 U.S.C. §  
11 1961(4).  
12

13 191. Additionally, Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah  
14 Turner Bey, Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and James  
15 Raulerson's use of Clark County Recorder in the furtherance of their actions  
16 sufficiently link them to an enterprise as defined in 18 U.S.C. § 1961(4).

17 192. Plaintiff is informed and believes, and thereon alleges that Defendants and  
18 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
19 Jackson, Gregory W. Blackmer and James Raulerson unlawfully executed, or caused  
20 to be recorded the Assignments on December 29, 2010, April 26, 2013, and July 31,  
21 2015, with the specific intent to defraud Plaintiff.  
22

23 193. Plaintiff is informed and believes, and thereon alleges that on Defendants and  
24 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
25 Jackson, Gregory W. Blackmer and James Raulerson caused to be recorded, the

1 Assignments with the Clark County Recorder as instrument numbers  
2 201007200091045, 201012290003426, and 201304260002558.

3 194. As of the date of this Complaint, about 7 years later, the Assignments remain  
4 recorded with the Clark County Recorder in its original form.

5 195. As of the date of this Complaint, Defendants and Natalie D. Jones, Matthew J.  
6 Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer  
7 and James Raulerson have taken no action to correct, amend, or substitute the  
8 fraudulent Assignments with the Clark County Recorder, and it is unlikely that they  
9 will take any action to correct, amend, or substitute the Assignment anytime in the  
10 future, such that their alleged misconduct will continue indefinitely into the future.

11 196. Plaintiff is informed and believes, and thereon alleges that Defendants and  
12 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
13 Jackson, Gregory W. Blackmer and James Raulerson are and were engaged in a pattern  
14 of racketeering activity as defined in 18 U.S.C. § 1961(5) at all times relevant to this  
15 transaction to harm Plaintiff by Defendants intentionally interfering with clouding title  
16 to Plaintiff's property and defraud Plaintiff of her Property.

17 197. Plaintiff is informed and believes, and thereon alleges that Defendants and  
18 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
19 Jackson, Gregory W. Blackmer and James Raulerson communicated with each other,  
20 and with the Clark County recorder via mail, telephone, wire, and electronic mail  
21 communications within a ten-year period immediately preceding the date of this  
22 Complaint with the specific intent to defraud Plaintiff.  
23  
24  
25

1 198. Plaintiff is informed and believes, and thereon alleges that Defendants and  
2 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
3 Jackson, Gregory W. Blackmer and James Raulerson acted in the following manner,  
4 which was devised and implemented as a scheme to defraud was to obtain illegal title  
5 to Plaintiff's home through an illegitimate foreclosure:

- 6 a. Drafting and executing the Assignment;
- 7 b. Recording the Assignment with the Clark County Recorder;
- 8 c. Filing legal actions relying on Defendants' failure to execute or record a  
9 Substitution of Trustee to demonstrate, amongst other things, Defendants'  
10 standing;
- 11 d. Seeking a second illegitimate foreclosure relying in part on Defendants' failure  
12 to execute or record a Substitution of Trustee;
- 13 e. Operated their enterprise from across state lines;
- 14 f. Obtained or transmitted funds, supplies and/or services across state lines;
- 15 g. And/or otherwise utilized interstate commerce to further their fraudulent  
16 enterprise.

17 199. These actions were part of a scheme or artifice to defraud Plaintiff.

18 200. Plaintiff is informed and believes, and thereon alleges that Defendants and  
19 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
20 Jackson, Gregory W. Blackmer and James Raulerson's conduct described herein  
21 constitutes unlawful conduct, including that conduct being devised and implemented  
22 to defraud Plaintiff.

23 201. Plaintiff is informed and believes, and thereon alleges that Defendants and  
24 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
25 Jackson, Gregory W. Blackmer and James Raulerson's representations to Plaintiff, the  
Clark County Recorder about the possibility, legality, and truthfulness of the  
Assignments were not true.

1       202. Plaintiff is informed and believes, and thereon alleges that Defendants and  
2       Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
3       Jackson, Gregory W. Blackmer and James Raulerson's representations were material  
4       to the scheme to defraud Plaintiff.

5       203. Plaintiff is informed and believes, and thereon alleges that Defendants and  
6       Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
7       Jackson, Gregory W. Blackmer and James Raulerson's communicated their  
8       representations using the United States Postal Office.

9       204. Plaintiff is informed and believes, and thereon alleges that Defendants and  
10       Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
11       Jackson, Gregory W. Blackmer and James Raulerson communicated their  
12       representations using wire communications.

13       205. Plaintiff is informed and believes, and thereon alleges that Defendants and  
14       Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
15       Jackson, Gregory W. Blackmer and James Raulerson communicated their  
16       representations to Plaintiff more than six times using interstate commerce.

17       206. Plaintiff is informed and believes, and thereon alleges that Defendants and  
18       Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
19       Jackson, Gregory W. Blackmer and James Raulerson individually and collectively sent  
20       Plaintiff more than six letters using the Postal Service during the times relevant to this  
21       transaction.  
22

23       203. Defendants called Plaintiff more than six times using the telephone service  
24       during the relevant times to this transaction.  
25



1 Jackson, Gregory W. Blackmer and James Raulerson's actions described herein  
2 constitute Fraud and Swindles under 18 U.S.C. § 1341.

3 213. Plaintiff is informed and believes, and thereon alleges that Defendants and  
4 Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez, Kathy  
5 Jackson, Gregory W. Blackmer and James Raulerson both individually and  
6 collectively, were related in that their actions had similar purposes, results,  
7 participants, victims and methods of commission.

8 214. Plaintiff is informed and believes, and thereon alleges that the actions of  
9 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
10 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson have executed,  
11 or caused to be executed, other impossible mortgage assignments in Clark County,  
12 Nevada Recorder's Office to support foreclosing filings.

13 215. Plaintiff is informed and believes, and thereon alleges that the actions of  
14 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
15 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson, both by each  
16 individually and collectively, constitute their regular way of conducting their ongoing  
17 enterprise.  
18

19 216. Upon information and belief, Plaintiff alleges that it is likely that the actions of  
20 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
21 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson will continue to  
22 file mortgage assignments in the Clark County Recorder's Office that are unlawful  
23 and/or fraudulent, or continue to fail to take corrective action to notify the courts of  
24 impossible assignments they have already filed to further their fraudulent enterprise.  
25

1 217. Plaintiff is informed and believes, and thereon alleges that the actions of  
2 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
3 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson's in this Count  
4 constitute a scheme to defraud Plaintiff of money or the Subject Property.

5 218. Plaintiff is informed and believes, and thereon alleges that the actions of  
6 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
7 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson's in this Count  
8 constitute a scheme to defraud Plaintiff of money or the Subject Property.

9 219. Plaintiff is informed and believes, and thereon alleges that the actions of  
10 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
11 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson took the actions  
12 defined in this Count with the knowledge its actions would likely result in their  
13 defrauding Plaintiff.  
14

15 220. Plaintiff is informed and believes, and thereon alleges that the actions of  
16 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
17 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson took the actions  
18 defined herein with callous and reckless indifference to the rights of others.

19 221. Plaintiff was injured by Defendants' RICO violations, including by having to  
20 defend a foreclosure action based in part on the impossible Assignment, for facing  
21 potential multiple liability from others who may claim an interest in the mortgage or  
22 note, for clouding Plaintiff's property title by having the impossible Assignments  
23 appear and remain on the recorded title with the Clark County Recorder, for wrongly  
24  
25



1 foreclosing on the interest in her property, for interfering with a mediation hearing, and  
2 for the other actions described herein.

3 222. Plaintiff is informed and believes, and thereon alleges that the actions of  
4 Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy  
5 Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson were the actual  
6 and proximate cause of Plaintiff's injuries and each are liable to her under this Count.

7 223. Plaintiff is entitled to damages, treble damages, punitive damages, attorneys'  
8 fees, and costs for Defendants' RICO violations.

9  
10 **FIFTH CAUSE OF ACTION**

11 **FDCPA**

12 224. Plaintiff re-alleges all preceding paragraphs in their entirety.

13 225. Plaintiff purchased her home with a mortgage loan through MidFirst Bank.

14 226. The Note, payable to MidFirst Bank, is a debt within the meaning of the  
15 FDCPA, 15 U.S.C. §§ 1692a(5), as it was an alleged obligation of Plaintiff to pay  
16 money in return for the loan to purchase her primary residence.

17 227. Plaintiff is informed and believes, and alleges that Defendants' actions of filing  
18 and maintaining an illegitimate foreclosure action upon her with the use of false  
19 statements and evidence constitute a false, deceptive, and/or misleading practice in an  
20 attempt to collect a debt in violation of the FDCPA, 15 U.S.C. § 1692a(5).

21 228. Plaintiff has suffered emotional distress as a result of Defendant's malicious  
22 actions.

23 229. Defendants are liable to Plaintiff under this Count for its FDCPA violations in  
24 an amount equal to or greater than actual damages in the amount of \$2,300 for each of  
25

1 Defendants' violations of the FDCPA, 15 U.S.C. § 1692k(a)(a); damages for emotional  
2 distress; statutory damages in the amount of \$1,000, 15 U.S.C. § 1692k(a)(2)(A); and  
3 attorneys' fees and the costs of this action, 15 U.S.C. 1692k(a)(3).

4  
5 **SIXTH CAUSE OF ACTION**

6 **UNCONSCIONABLE CONTRACT**

7 **(Against Defendant MidFirst Bank - FNMA 2006-123)**

8 230. Plaintiff re-alleges all preceding paragraphs in their entirety.

9 231. The actions of Defendants as set forth herein, resulted in Plaintiff  
10 being forced, tricked, and mislead into parting with her property.

11 232. Generally, one must prove the following to bring a legally sufficient  
12 claim of Unconscionable Contract.

- 13 a. Undue Influence;  
14 b. Duress;  
15 c. Unequal Bargaining Power;  
16 d. Unfair Surprise; and  
17 e. Limited Warranty

18 233. Defendant MidFirst Bank presented in the origination of the purported  
19 loan that specific criteria such as FICO score and other industry standard  
20 underwriting requirements must be met to qualify for a loan of money for the subject  
21 property from MidFirst Bank.

22 234. Defendant MidFirst Bank presented in the origination of the purported  
23 loan that a preliminary signature on the Mortgage loan contract was required to "lock  
24 in" an interest rate regarding the terms of the purported loan.  
25

1           235. Defendant MidFirst Bank failed to clarify in the terms of the  
2 Mortgage loan contract that MidFirst Bank, the Originator on the contract, was in  
3 fact acting solely in the capacity as Accommodated Party account debtor beneficiary  
4 for a purported loan of money. MidFirst Bank concealed they were financially  
5 benefitting by bargaining with a third party to acquire a service release premium via  
6 wire funds transfer to table fund the purported loan at the closing using a warehouse  
7 line of credit.

8           236. Defendant MidFirst Bank knew or should have known that through a  
9 consciousness of innocence Plaintiff was at a special disadvantage when attempting  
10 to grant an alternate means of collection via the Security Instrument real property lien  
11 Deed of Trust to MidFirst Bank.

12           237. Defendant MidFirst Bank intended to exploit Plaintiff's special  
13 disadvantage and deny Plaintiff's superior rights to the subject property.

14                           **SEVENTH CAUSE OF ACTION**

15                                   **BREACH OF CONTRACT**

16   **(Against Defendant MidFirst Bank/MERS)**

17           238. Plaintiff re-alleges all preceding paragraphs in their entirety.

18           239. The terms of the mortgage contract are clear.

19           240. Pursuant to paragraph 23 – Release, Defendant MidFirst Bank and  
20 specifically MERS, their electronic agent, was obligated to satisfy, release and  
21 reconvey the beneficial security interest in Plaintiff's pledged Deed of Trust upon  
22 payment of all sums associated with the release premium to MidFirst Bank for  
23 Accommodated Party services rendered.  
24  
25

1           241. Defendant MidFirst Bank was paid in full for their Accommodated  
2 capacity to the Tangible Note and Deed of Trust when it sold and relinquished its  
3 interest in Plaintiff's real property to Depositor.

4           242. Defendant MidFirst Bank failed to satisfy, release and reconvey the  
5 security instrument, thus breaching the terms found in paragraph 23 of the Deed of  
6 Trust.

7                           **EIGHTH CAUSE OF ACTION**

8                           **BREACH OF FIDUCIARY DUTY**

9           243. Plaintiff re-alleges all preceding paragraphs in their entirety.

10           244. Generally, one must prove the following to bring a legally sufficient  
11 claim of Breach of Fiduciary Duty.  
12

- 13                   a. Breach of full disclosure;  
14                   b. Breach of good faith and fair dealing;  
15                   c. Misuse of superior or influential position;  
16                   d. Misuse of superior knowledge; and  
17                   e. Failure to act in another's best interest

18           245. Defendant MidFirst Bank failed to disclose to Plaintiff that they were  
19 not the legitimate creditor but more accurately, were account debtor in the  
20 accommodated table funded 26 U.S. Code § 1031 – Exchange of property held for  
21 productive use or investment to FNMA 2006-123.

22           246. Defendant MidFirst Bank as beneficiary under the Deed of Trust  
23 having only an Accommodated personal property interest over the Real Property  
24 collateral failed to meet their fiduciary duty to satisfy, release and reconvey the Real  
25 Property Lien Deed of Trust and the beneficial security interest (personal property)

1 therein after receiving payment for all sums represented as the service release  
2 premium.

3 247. After November 6, 2006, and unknown to Plaintiff, Defendant  
4 MidFirst Bank for payment rendered through a service release premium divested  
5 itself of their capacity under Accommodated Note, but did not comply with the  
6 covenants of the Deed of Trust specifically, Covenant 23 – Release.

7 248. MidFirst Bank's acting not in the best interest of the grantor of the  
8 Deed of Trust failed to adhere to their Fiduciary Duties. Defendant MidFirst Bank  
9 was to satisfy, release and reconvey the security instrument allowing Plaintiff to  
10 maintain clear and marketable title. Because of its failure to comply with the Deed of  
11 Trust, Defendants caused a cloud on Plaintiff's superior claim to title. Thus, Plaintiff  
12 was harmed.  
13

14 **NINTH CAUSE OF ACTION**

15 **VIOLATIONS OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT**

16  
17 249. Plaintiff re-alleges all preceding paragraphs in their entirety.

18 250. Bank of America's misrepresentations to Plaintiff, a Nevada  
19 consumer, regarding the operation of its mortgage modification practices violates  
20 the Nevada Deceptive Practices Act, in particular, Bank of America's deceptive  
21 conduct breached its obligations under Nevada Revised Statute § 598.0915(9),  
22 which provides that it is a deceptive practice for a person to "[a]dvertise[] goods or  
23 services with the intent not to sell or lease them as advertised;" Nevada Revised  
24 Statute § 598.0915(15), making it a deceptive trade practice for a person to  
25

1 “[k]nowingly make [] any other false representation in a transaction”; Nevada  
2 Revised Statute § 598.0928(8), which declares that it is a deceptive trade practice  
3 for a person to “[k]nowingly misrepresent [] the legal rights, obligations or  
4 remedies of a party to a transaction;” Nevada Revised Statute § 598.0923(3), which  
5 makes knowing violations of “a state or federal statute or regulation relating to the  
6 sale or lease of goods or services” a violation of the Deceptive Trade Practices Act.

7  
8 251. Based on information and belief, Bank of America engaged in a  
9 pattern and unlawful practices in violation of the Nevada Deceptive Trade Practices  
10 Act §§ 598, et seq., in that it made false promises and used deception, deceptive  
11 practices, and/or misrepresentations in connection with Plaintiff’s mortgage  
12 modification.

13 252. Based on information and belief, Plaintiff did not take other actions  
14 that she would have otherwise taken to save her home from foreclosure but for  
15 Defendants’ promises that she would be eligible for a HAMP after she stopped  
16 making payments on her home.

17 253. Plaintiff alleges that the truth was that the Defendants never intended  
18 to review Plaintiff’s modification application, honestly or otherwise, and that they  
19 did not review Plaintiff’s application in good faith.

20 254. Based on information and belief, Plaintiff alleges that the truth was  
21 that Plaintiff’s modification package was never submitted to underwriting for final  
22 review and approval.

23  
24 **TENTH CAUSE OF ACTION**

25 **Falsification**

1 255. Plaintiff incorporates all other paragraphs in this Complaint by reference as though  
2 fully rewritten herein. Defendants and Natalie D. Jones, Matthew J. Petersen,  
3 Deborah Turner Bey, Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and  
4 James Raulerson at the behest of their employers, knowingly made a false statement  
5 within the Assignments when she stated they had the authority to sign on behalf of  
6 MERS and Countrywide Bank, FSB, as MERS' Assistant Secretary and Vice  
7 President.

8 256. Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey,  
9 Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson's false  
10 statement was made with the purpose to mislead the arbitrator in the performance of  
11 their official function within the foreclosure action. Their false statements were  
12 sworn before notaries public.

13 257. As a result of Defendants' and Natalie D. Jones, Matthew J. Petersen,  
14 Deborah Turner Bey, Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and  
15 James Raulersons' false statements, Plaintiff suffered damages in the amount of  
16 \$10,000.00, and damages for emotional distress. Accordingly, Defendants are jointly  
17 and severally liable to Plaintiff for: \$10,000.00; damages for emotional distress;  
18 attorney's fees; the costs of the action; and other expenses incurred as a result of  
19 prosecuting this action.  
20

## 21 ELEVENTH CAUSE OF ACTION

### 22 **Civil Conspiracy**

23 258. Plaintiff incorporates all other paragraphs in this Complaint by reference as  
24 though fully rewritten herein. Defendants and Natalie D. Jones, Matthew J. Petersen,  
25

1 Deborah Turner Bey, Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and  
2 James Raulerson agreed to execute the Assignments, knowing they contained false  
3 representations.

4 259. Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez,  
5 Kathy Jackson, Gregory W. Blackmer and James Raulerson, at the behest of  
6 Defendants, signed the Assignments on December 29, 2010, April 26, 2013, and July  
7 31, 2015.

8 260. Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey, Wendy Ramirez,  
9 Kathy Jackson, Gregory W. Blackmer and James Raulerson on behalf of Defendants,  
10 recorded the fraudulent Assignments in the Clark County Recorder's Office.  
11

12 Accordingly, Defendants and Natalie D. Jones, Matthew J. Petersen, Deborah Turner  
13 Bey, Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulerson,  
14 conspired to commit the tort and crime of falsification.

15 261. Defendants' and Natalie D. Jones, Matthew J. Petersen, Deborah Turner Bey,  
16 Wendy Ramirez, Kathy Jackson, Gregory W. Blackmer and James Raulersons'  
17 actions of conspiring to commit the tort and crime of falsification is an unlawful act,  
18 which was independent from the actual conspiracy.

19 262. As a result of Defendants' agreement to execute the Assignments and the  
20 resultant falsification, Plaintiff suffered damages of \$10,000.00, and damages for  
21 emotional distress. Accordingly, Defendants are jointly and severally liable to  
22 Plaintiff for: \$10,000.00; damages for emotional distress; attorney's fees; the costs of  
23 the action; and other expenses incurred as a result of prosecuting this action.  
24  
25



**TWELFTH CAUSE OF ACTION**

**QUIET TITLE**

263. Plaintiff re-alleges all preceding paragraphs in their entirety.

264. Defendants named herein claim an interest and estate in the property adverse to Plaintiff in that Defendant assert they are the owners of the note secured by the Deed of Trust to Plaintiff's property, the subject of this suit.

265. Defendants named herein claims an interest and estate in the Real Property adverse to Plaintiff in that Defendants assert to be the owners of a Tangible Note secured by the Deed of Trust to the Real Property, the subject of this suit.

266. The claims of all Defendants are without any legal right whatsoever, and Defendants have no estate, title, lien or interest in or to the Real Property, or any part of the Real Property construed and hypothecated as "After Acquired Collateral" the Intangible Payment transferable record to the §1031 - Exchange.

267. The claim of all Defendants herein named, and each of them, claim some estate, right, title, lien or interest in or to the property adverse to Plaintiff's title, and these claims constitute a cloud on Plaintiff's title to the Real Property.

268. Plaintiff alleges that Defendants have either sat on their rights or have failed to act on those rights for 8 years and have thus abandoned their security interest if any legitimately existed.

269. Defendants have failed to establish any interest in the subject Real Property and therefore, any alleged transfer or assignments of Defendants' rights or interest in the subject Real Property must be considered invalid and void.

1           270. Plaintiff, therefore alleges upon information and belief, that none of the  
2 parties to the §1031 - Exchange transaction, nor any of the Defendants in this case, hold  
3 a perfected and secured claim in the Real Property; and that all Defendants are estopped  
4 and precluded from asserting an unsecured claim against Plaintiff's Real Property  
5 Estate.

6           271. Plaintiff further alleges that the Note securing the Deed of Trust has  
7 been satisfied. There remains no outstanding amount owing on the Note.

8           272. Defendants initiated and undertook the foreclosure process without  
9 authority to do so. As of the time they sent the Notice of Default, they were not  
10 authorized to do so under the holdings of the Nevada Supreme Court pursuant to *Leyva*  
11 *v. National Default Servicing Corp.*, 127 Nev., Advance Opinion 40, 255 P.3d 1275,  
12 (July 7, 2011); and *Pasillas v. HSBC Bank USA*, 127 Nev., Advance Opinion 39, 255  
13 P.3d 1281 (July 7, 2011), having failed to conform with NRS 104.3201.

14           273. Defendants' failure to present authority to commence the foreclosure  
15 process void any subsequent actions and renders it a nullity by operation of law.

16           274. Defendants assert claims to title adverse to Plaintiff's based on void  
17 foreclosure proceedings.

18           275. Plaintiff requests a declaratory judgment from this Court permanently  
19 enjoining Defendants, and each of them, and all persons claiming under them, from  
20 asserting any adverse claim to Plaintiff's title to the Real Property; that Plaintiff is the  
21 owner of the Real property, and that Plaintiff's rights to the Real property and interest  
22 in the Real Property are superior to any adverse interest claimed by Defendants.  
23  
24  
25

1           276. As a direct and proximate result of Defendants' conduct, Plaintiff has  
2 suffered and will suffer damages, including special damages for attorneys' fees for  
3 removing the cloud on Plaintiff's property title. Defendants' conduct was fraudulent,  
4 oppressive and malicious entitling Plaintiff to an award of punitive damages under  
5 NRS 42.

6           277. Plaintiff requests the court award Plaintiff's costs of this action, and  
7 such other relief as the court may deem proper.

8                           **THIRTEENTH CAUSE OF ACTION**

9                                   **SLANDER OF TITLE**

10           278. Plaintiff re-alleges all preceding paragraphs in their entirety.

11           279. Generally, one must prove the following to bring a legally sufficient  
12 claim of Slander of Title.  
13

- 14           a. There was a communication to a third party of  
15           b. a false statement;  
16           c. derogatory to another's title;  
17           d. with malice; and  
18           e. causing special damages.

19           280. There are no UCC 1 Financial Statements perfecting a personal  
20 property interest regarding the purported true sale(s) and conveyance of credit swaps  
21 in 26 U.S. Code §1031 – Exchange of transferable record Smart Note personal  
22 property (payment intangible) in accordance of local law of jurisdiction.

23           281. There are no UCC 1 Financial Statements perfecting personal property  
24 interest in the Accommodated Deed of Trust contract enforcement rights with the  
25 Secretary of State's Office where the Real Property resides, giving constructive notice

1 to the world of the true capacity of the purported parties in the §1031 – Exchange in  
2 performance of the securities of FNMA 2006-123. (See Asset Securitization  
3 Comptroller’s Handbook Nov. 1997 [http://www.occ.gov/publications/publications-](http://www.occ.gov/publications/publications-by-type/comptrollers-handbook/assetsec.pdf)  
4 [by-type/comptrollers-handbook/assetsec.pdf](http://www.occ.gov/publications/publications-by-type/comptrollers-handbook/assetsec.pdf))  
5

6 282. Such instruments remain unrecorded as “Secret Liens” within the  
7 collateral file and was never submitted for recordation to perfect Defendant’s rights to  
8 the Accommodated Tangible Note and pledged Deed of Trust lien and the right to  
9 enforce an alternate means of collection.

10 283. Equitable rights to the Payment Intangible in the § 1031 – Exchange do  
11 not extend to a lien on Real Property in accordance with statutory law.  
12

13 284. Defendants, by withholding such facts, have potentially committed a  
14 grave error Slander of Title causing special damages.

15 285. The act of recording the purported January 18, 2007, Assignment of  
16 Deed of Trust into the Official Records of the Clark County Recorder’s Office is a  
17 communication to a third party of false statement derogatory to Plaintiff’s title made  
18 with malice causing special damages to the Plaintiff’s claim of title.

19 286. The act of recording the purported December 29, 2010, Corporation  
20 Assignment of Deed of Trust into the Official Records of the Clark County  
21 Recorder’s Office is a communication to a third party of false statement derogatory to  
22 Plaintiff’s title made with malice causing special damages to the Plaintiff’s claim of  
23 title.  
24  
25

1           287. The act of recording the purported April 26, 2013, Corporate  
2 Assignment of Deed of Trust into the Official Records of the Clark County  
3 Recorder's Office is a communication to a third party of a false statement derogatory  
4 to Plaintiff's title made with malice causing special damages to the Plaintiff's claim  
5 of title.

6           288. The act of recording the purported July 31, 2015, Corporate  
7 Assignment of Deed of Trust into the Official Records of the Clark County  
8 Recorder's Office is a communication to a third party of a false statement derogatory  
9 to Plaintiff's title made with malice causing special damages to the Plaintiff's claim  
10 of title.

11           289. Defendants disparaged Plaintiff's exclusive valid title by and through  
12 the preparation, posting, publishing and recording of documents, including but not  
13 limited to the Notice of Default, Notice of Trustee's Sale and others evidencing the  
14 commencement of non-judicial foreclosure by parties who do not possess that right  
15 pursuant to the arbitrator's issuance of a Certificate of Non-Foreclosure, (*see*  
16 **Exhibit 3**).

17           290. Defendants knew or should have known that such documents were  
18 improper in that at the time of the execution and delivery of said documents,  
19 Defendants had no right, title or interest in Plaintiff's property. The recording of  
20 these documents were naturally and commonly to be interpreted as denying  
21 disparaging, and casting doubt upon Plaintiff's legal title to the real property. By  
22 posting, publishing and recording said documents, Defendants' disparagement of  
23  
24  
25

1 Plaintiff's legal title is made to the world at large thereby slandering Plaintiff's title  
2 rendering it unmarketable and causing damage.

3 291. As a direct and proximate result of Defendants' conduct, Plaintiff has  
4 suffered and will suffer damages, including special damages, for the attorney's fees  
5 and costs for the removal of the cloud on Plaintiff's property title. Defendant's  
6 fraudulent, oppressive and malicious conduct entitles Plaintiff to an award of punitive  
7 damages under NRS 42.

8 **FOURTEENTH CAUSE OF ACTION**

9 **TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF**

10  
11 292. Plaintiff re-alleges all preceding paragraphs in their entirety.

12 293. Plaintiff is the record title holder of the Property, and is now being  
13 threatened with imminent irreparable injury by the conduct of Defendants.

14 294. Plaintiff will continue to be in jeopardy of injury by the Defendants'  
15 wrongful conduct by the now threatened foreclosure sale, causing irreparable injury  
16 by denying them the right to maintain the status quo between the parties pending  
17 resolution of the present dispute.

18 295. Plaintiff has no adequate remedy at law for both the factual and  
19 threatened injuries herein described. Plaintiff's real property residence and rights  
20 involved are non-fungible and utterly unique so that it will be impossible to  
21 accurately measure in monetary terms the damage caused by Defendants' wrongful  
22 conduct.  
23  
24  
25

1           296. Defendants' numerous violations of federal and state statutes and their  
2 inability to establish a claim of right to Plaintiff's Note or Deed of Trust establishes  
3 Plaintiff's claim as more probable than not and Plaintiff will likely prevail at the time  
4 of trial.

5           297. Plaintiff requests that Defendants and its agents and employees be  
6 enjoined from prosecuting any continuance of a foreclosure sale pending trial.

7  
8                   **FIFTEENTH CAUSE OF ACTION**

9                   **DECLARATORY RELIEF**

10           298. Plaintiff re-alleges all preceding paragraphs in their entirety.

11           299. An actual controversy has arisen and now exists between Plaintiff and  
12 Defendants specified hereinabove regarding Plaintiff's respective rights and duties in  
13 the subject note and security instrument. Plaintiff requests a judicial determination of  
14 the rights, obligations and interest of the parties regarding the subject property, and  
15 such determination is necessary and appropriate under the circumstances so that all  
16 parties may ascertain and know their rights, obligations and interests regarding the  
17 subject property.

18           300. Plaintiff requests the Court to make certain declarations relating to  
19 Defendants' standing to enforce the Deed of Trust and Defendants' rights and  
20 conduct in connection with the Deed of Trust which falls within NRS 30.040(1).

21           301. Plaintiff should be the equitable owner of the Subject Property.

22           302. Plaintiff seeks to quiet title as of the date of the filing of this  
23 Complaint pursuant to NRS 30.030(1). Plaintiff seeks a judicial declaration that the  
24 title to the Subject Property is vested in Plaintiff alone and that the Defendants be  
25

1 declared to have no interest estate, right, title or interest in the subject property and  
2 that the Defendants, their agents and assigns, be forever enjoined from asserting any  
3 estate, right title or interest in the Subject Property subject to Plaintiff's rights.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, for the foregoing reasons, Plaintiff prays that Defendants  
6 answer herein, and that upon a final hearing, Plaintiff be awarded judgment:

7 • Declaring that Defendants lack any interest in the subject property  
8 which would permit them to foreclose, evict, or attempt to foreclose or evict, the trust  
9 deed and/or to sell the subject properties;

10 • Declaring that the trust deed is not a lien against the subject properties,  
11 ordering the immediate release of the trust deed of record, and quieting title to the  
12 subject property in Plaintiff and against Defendants and all claiming by, through or  
13 under them;

14 • A refund of any wrongfully or improperly collected fees and payments  
15 from Defendants to which it had no right;

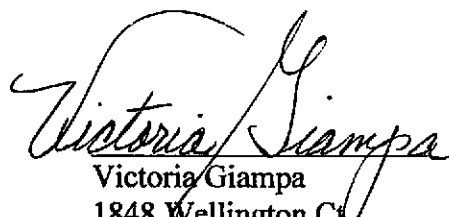
16 • Pre- and post-judgment interest at the maximum rate allowed by law;

17 • Attorney's fees and costs;

18 • Monetary relief over \$100,000 but not more than \$2,000,000.00; and

19 • Such other and further relief at law and/or in equity to which Plaintiff  
20 may be justly entitled including but not limited to damages within the jurisdictional  
21 limits of this Court, together with pre-judgment and post-judgment interest as are  
22 allowed by law.

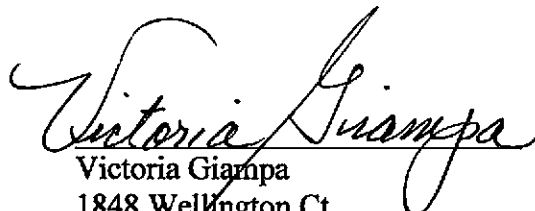
23 Dated: April 28, 2017.

24   
Victoria Giampa  
1848 Wellington Ct  
Henderson, NV 89014



**VERIFICATION**

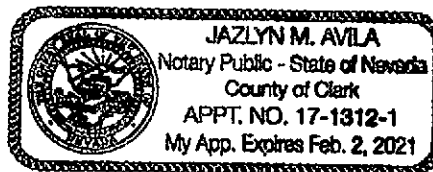
I, Victoria Giampa, *In Pro Se*, the Plaintiff in the above entitled matter has personal knowledge to testify to the matters stated therein. I have read the facts and allegations and declare under penalty of perjury in and for the State of Nevada that the above is true and correct to the best of my knowledge.

  
Victoria Giampa  
1848 Wellington Ct.  
Henderson, NV 89014  
(702) 434-9027  
superjanedoe@yahoo.com

On the 28 day of April, Victoria Giampa, known to me appeared before me and executed the above document.

  
NOTARY

My Commission expires on 02/02/2021.



## EXHIBITS

- Exhibit 1: October 15, 2009 - Notice from BAC Home Loans Servicing of Lender-Placed Insurance
- Exhibit 2: December 23, 2009 – Cancellation of Lender-Placed Insurance
- Exhibit 3: March 31, 2016 – Certificate of Non-Foreclosure
- Exhibit 4: State of Nevada Attorney General’s Complaint against Countrywide, Bank of America, et al, for Violations of the Deceptive Trade Practices Act
- Exhibit 5: Note
- Exhibit 6: November 6, 2006 - Deed of Trust
- Exhibit 7: Certified Forensic Audit and Affidavit by Michael Carrigan
- Exhibit 8: November 22, 2006 – Letter from MidFirst – Loan sold to Countrywide
- Exhibit 9: December 5, 2006. Notice from Midfirst – Servicing of Loan assigned, sold or transferred from Midfirst Bank to Countrywide, effective 1/1/07
- Exhibit 10: December 27, 2010 – ReconTrust Company, N.A., acting in its capacity as agent for the beneficiary is attempting to collect a debt for BAC Home Loans Servicing, LP
- Exhibit 11: January 5, 2011 – Reinstatement Calculation  
Net Total Due: \$8,839.58
- Exhibit 12: February 11, 2011 – Bank of America Check No. 0004435963, in the amount of \$1,548.81 for Escrow Overages
- Exhibit 13: June 17, 2011 – Bank of America – written admission of failing to give Plaintiff advance notice of pricing monthly fee change
- Exhibit 14: November 6, 2006 Note Endorsement Allonge signed by Natalie D. Jones, Vice President, Countrywide
- Exhibit 15: January 22, 2016, State of Nevada, Foreclosure Mediation Program  
Notice to Appear
- Exhibit 16: May 15, 2016 letter from Plaintiff to Midfirst - Request for bank’s copy of Assignment of Mortgage Deed of Trust and Exhibits